

GREAT DEBATES IN AMERICAN HISTORY

From the Debates in the British Parliament
on the Colonial Stamp Act (1764-1765) to
the Debates in Congress at the Close of the
Taft Administration (1912-1913)

Volumes 1 - 5

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edited by

Marion Mills Miller

Volumes 1 - 5



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*From the Debates in the British Parliament on the
Colonial Stamp Act (1764-1765) to the Debates
in Congress at the Close of the Taft
Administration (1912-1913)*

EDITED BY

MARION MILLS MILLER, LLT.D. (PRINCETON)

Editor of "The Life and Works of Abraham Lincoln," etc.

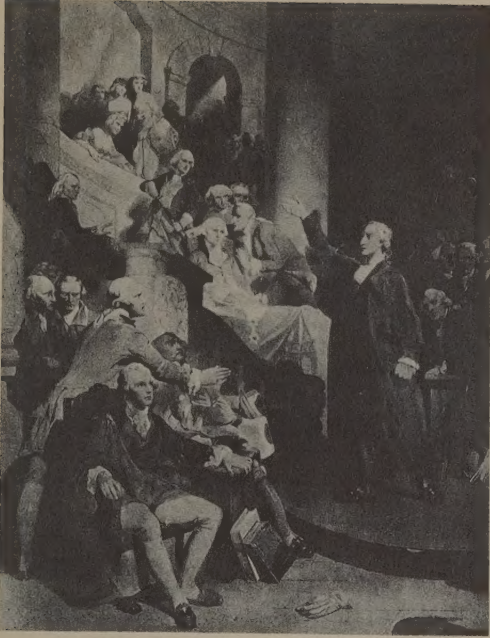
IN FOURTEEN VOLUMES

EACH DEALING WITH A SPECIFIC SUBJECT, AND CONTAINING A SPECIAL INTRODUCTION BY A DISTINGUISHED AMERICAN STATESMAN OR PUBLICIST

VOLUME ONE

COLONIAL RIGHTS—THE REVOLUTION—THE CONSTITUTION

With an Introduction by HENRY CABOT LODGE, LL.D.
Senator from Massachusetts



PATRICK HENRY ADDRESSING THE VIRGINIA ASSEMBLY

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GREAT AMERICAN DEBATES

PREFACE OF THE SERIES

[INCLUDING BIBLIOGRAPHY]

ONE of the most notable scenes in ancient history was the joint debate between Demosthenes and Æschines, "On the Crown." The point at issue was whether a civic crown should be granted to Demosthenes, the Athenian premier, for his policy toward Philip of Macedon, who was attempting to subvert the liberties of the peninsular Greeks. Æschines, the leader of the anti-administration party, opposed the grant, having deposited a large sum that he would prove his charge of corruption against Demosthenes. The result of the debate would be either that the whole national policy would be reversed, and the man responsible for it be deposed and disgraced, or that it would be vindicated and its impugner driven from the city a penniless exile. It was the latter event which occurred.

So great and so widespread was the interest in the debate that the open-air theater in which it was held was packed with thousands of people, including visitors from the farthest borders of the Greek world who had been drawn to the capital by the importance of the issue and the fame of the debaters. Under all these circumstances the two great statesmen, each a finished rhetorician and a master of all the arts of public controversy, as well as profoundly versed in constitutional law, made the supreme efforts of their long and brilliant careers. Each point in the speeches was thoroughly comprehended by the audience, and every oratorical period appreciated at its true æsthetic value, for the ancient Greeks had developed to the highest two kindred passions, that for controversy and that for rhetoric, both particularly in the domain of politics. Every man being

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GREAT AMERICAN DEBATES

an intense partisan, stormy gusts of cheers and derisive shouts swept again and again in conflicting waves over the vast assembly, while the unperturbed speakers paused for their subsidence. In its physical aspect this was the greatest debate in all history.

But only in this aspect, for, despite a prevalent impression (based on the impossibility of paralleling such a spectacle in the modern world) that debate is in decay, never was forensic contest more keen than now, and never did it have more interested or appreciative auditors, nor—and this is the point of superiority over the ancients—has it ever had by millions so many.

When a statesman rises to-day in the American Congress, or the British Parliament, or any national assembly in the world, to speak upon a great issue, if this is vital to his country the mind of every patriot within the land attends, and if the question is one of world politics the furthest corner of the earth is agog to catch his utterance.

The telegraph, and its record, the newspaper, are the instruments which give such a speaker an audience larger and more representative of every shade of belief and form of interest than all the hearers combined who hung on the words of the entire roll of ancient orators.

Occasionally outside of the national capital there will be a debate between statesmen on a vital question, and, for the time, the place where it occurs, however insignificant otherwise, will be the Mecca of the nation, toward which the eyes of the faithful are turned. Such a place was Freeport, Illinois, where Abraham Lincoln by clever finesse forced from Stephen A. Douglas the proposal of "unfriendly legislation" toward slavery in the Territories, and thereby caused the ultimate schism in the Democratic party, and the triumph of the Republican party under his own leadership. The "Freeport doctrine" this proposal was called, and the name will be forever recorded in American political history.

However, it is Washington at which, with few exceptions, the great debates in American history have occurred. To our mind the academic discussion of some general principle which may take place in any non-legis-

lative forum, including that of the magazine and newspaper, is not properly a political debate. No debate is complete unless it is followed by some concrete political action, preferably a vote upon a measure embodying the principle discussed. With such decision in prospect the controversy acquires the aspect of a real bout, a duel if there are two contestants, a field contest if there are many, and if these are, as is usually the case, divided into two parties, with the individual members of each so united in principle and program as to supplement the efforts of one another.

The duel, however, is the typical form of debate. Indeed, a field contest, in its general aspect of "team play," is a duel of one group against another, and in detail is a number of duels between coupled antagonists.

Each contestant maneuvers to gain the superior position over his adversary, and, when this is attained, to drive home his advantage. Direction is given his efforts by the fixed end in view, which, in both parliamentary law and finesse, is the question to be voted upon. Therefore, debate is law in the making, and legislation is the essence of political history.

All great historians recognize this, and so from Thucydides down have studied legislative debates. To what degree they have done so is probably the most accurate test of the value of their work. Certainly it is so in the case of American historians, for the United States is in all political aspects a constitutional democracy, and every important political event must be related to some legislative act, passed almost invariably after discussion, or to some constitutional function, which was originally a legislative act passed after extended debate.

Debate is thus the crucible of law, which is the metal of history. This symbol of the fusing pot is particularly apt in the case of American debate, for almost all the results of Congressional discussion have been of the nature of compromises. Even when a minority has been overborne, its protest has, if not at once some time thereafter, become effective in toning down the original purpose of the majority. Thus the overwhelming and

Thomas H. Benton's abridgment of Congressional debates down to the close of the first half of the nineteenth century saved recourse to the official reports. Benton's book can hardly be called a compilation, since it follows the chronological order of the *Annals of Congress* and the *Congressional Globe*, from which its material was taken, and merely reduces these official records by excision and condensation. It is a digest rather than a selection.

Although the need of a new selection and abridgment of American debates grew cumulatively greater with every year that followed Benton's work, the labor of preparing one increased apace, deterring editors from the task, and none appeared before the present year (1913).

It is true that the list of books relating to American eloquence forms one of the largest bibliographies of works published in the United States; and in this list collections of political orations are notable for their number and extent. But these are *disiecta membra* of debates, and, while inciting the reader with desire to possess the complete body, do not in any degree satisfy the desire. Even when a debate is ostensibly presented in one of these compilations, it is invariably the rhetorical, rather than argumentative, passages which are extracted and set over against each other. This is notably the case with the "classic" debate between Senators Webster and Hayne.

Believing that the practical American mind prefers argument, the clash of mind against mind, to mere rhetoric, which in its most interesting phase, the revelation of personality, is as far below debate as contrast is below contest, and realizing the entire absence of any work to satisfy this desire, Dr. Edward J. Wheeler, the editor of *Current Opinion*, several years ago planned a compilation of the great debates in our country's history from colonial times to the present, which should contain in logical arrangement selected public discussions of the most important national events, and forensic controversies over leading political issues, as conducted by our ablest and most brilliant statesmen.

imperious Radical majority in Congress after the Civil War failed to impeach President Johnson, and could not fasten permanently upon the South the Federal control of elections.

If, then, the historian profits by the study of debate, why should not everyone interested in politics follow his example? Why should he, too, not enjoy the enthusiasm of discovering the original materials of history and forming his own conclusions thereon?

Heretofore there has been a conclusive reason why this pleasure and profit, this high culture of intellectual insight and judgment, have been denied him. It has been impossible, without devoting, like the historian, many years to research work, and an equal period to comparison and selection, to acquire a discriminating knowledge of the debates in Congress and of their relation to each other. The records of our national assembly are presented in about five hundred large tomes, each averaging a thousand pages of two thousand words, making an approximate total of one billion words. Beginning with the *Annals of Congress*, and continuing with the *Congressional Globe* and the *Congressional Record*, this record is in strict chronological order, routine business being mingled with debates in a fashion most provoking to the investigator. Furthermore, it takes an expert to follow a subject through its widely separated installments by means of the index. Even when he has acquired this facility, the reader must dig his way through a mass of worthless material to find the vein of golden thought for which he is seeking.

Undoubtedly the superior grounding of our early statesmen in their subjects of discussion was due simply to the fact that the literature of debate was still of moderate extent, so that they could compass all that had been said before them on any given question. "Elliott's Debates," especially after their inclusion of the Madison Papers, rounded up the debates of the Confederation and the Constitutional Convention, although in undigested form. The *Annals of Congress* contained digests rather than verbatim reports of the debates in Congress for the first quarter of a century, and Senator

Dr. Wheeler honored me by asking that I compile this important work. Accepting the pleasing but onerous task, I set to work quarrying material in the rough out of the rich and well-nigh inexhaustible mines of colonial historical records and the official proceedings of Congress. Going over hundreds of volumes each of about a thousand pages, almost literally leaf by leaf, in order that no debate of prime importance should slip by, I unearthed at least a thousand debates all of interest to-day to the student of politics and economics. From these, with Dr. Wheeler's assistance, and that of Albert Ellery Bergh, the editor of "The World's Great Classics" and other important compilations, whom Dr. Wheeler called into consultation, I selected the two hundred or more which appear in the present work. While a very profound delver into American political history may regret to find that some debate which he considers of importance has been omitted, nevertheless the editor insists that, taking every element of selection into consideration, the inclusion of any such debate would have forced a better one out of a work which is necessarily limited in its extent.

These are the standards by which the selection has been made. They are arranged in the order of precedence:

1. Importance of the historical event, the legislative act, or the political or economic issue which forms the subject of the debate.
2. Argumentative force of the speeches.
3. Rhetorical brilliance of the speeches.
4. Distinguished rank of the speakers among American statesmen, with a minor preference for men of original views and interesting personality.

In preparing these debates the editor has faithfully tried to follow Herbert Spencer's great principle of literary composition: "economy of the reader's attention," and to this end has endeavored to give only that information which is essential to a proper understanding of each issue, and to present this in the place most available to the reader, whether it be preceding, during

the debate, or following it. The work is not intended as a political history (although it is calculated to form a valuable supplement to such a history) and therefore only that information is presented which will connect the debate in hand with others related to it, and which will save the reader recourse to other works in order to understand the political situation at the time of the debate, and the unexplained allusions of the debaters. In this way it is believed that the ends of readability and reference are both attained.

In further obedience to this law, he has abandoned the rule, common among editors of speeches, of indicating omissions by asterisks. Had he continued this practice, so numerous were the omissions, owing to the great exigency of condensation, that the reader might at times think he was contemplating an astronomical chart rather than surveying the galaxy of American forensic eloquence.

In similar consideration, no less for the author quoted than for the reader, the editor has interpolated as an intrinsic part of the speeches certain phrases bridging over the omitted portions. Then, too, except where a grammatical solecism was plainly intended by a speaker, or is indicative of his personality, such a slip has been corrected. In so doing the editor has followed the example of the best Congressional reporters, certainly a sufficient, if not imperative, precedent in the case of editing Congressional speeches. Sticklers for exact phraseology may readily find this in the Congressional records themselves, by using the dates of the present work as indicators. In this connection it may be claimed that, on the important questions for which these vast and voluminous records are consulted in nine cases out of ten, the present work forms a very simple and practical guide book.

Where the substance of a speech, in whole or in part, is given by the editor, this is distinguished typographically from speeches or parts of speeches reported as delivered. However, condensations of speeches, changed from direct to indirect discourse, which was the rule in early reporting before the days of verbatim presenta-

tion, are represented in the same type as speeches printed as delivered.

Owing to this form of indirect discourse, the early speeches are not as lively as the later, but the reader should remember that what is lost in brilliance is more than compensated for by concentration of thought. In this work, as in any selection of American forensic oratory, there is fine rhetoric in overflowing measure for those who desire it, but, as has already been stated, "Great Debates" is intended for readers who primarily want clear and forcible argument.

SOURCES OF MATERIAL

In gathering material resource was had to the many collected works of great American statesmen, such as John Adams, Daniel Webster, John C. Calhoun, Thomas Corwin, Joshua R. Giddings, William H. Seward, Abraham Lincoln, Charles Sumner, *et al.*, all of which will be found in the public libraries by the student who desires to read in full the speeches represented in this work.

Many collections of speeches were resorted to, of which it will be well to mention a few of the early ones which have been drawn upon by all the editors of the later collections. The chief early compilations are: "Eloquence of the United States," edited by E. B. Williston: Middletown, Ct., 1827, and "American Eloquence," edited by Frank Moore, and published by D. Appleton & Company, New York, 1857.

One of the modern compilations deserves special mention for the admirable taste shown in its selection of representative speeches, its illuminating notes, and its well-written biographies of the orators. This is "American Orations," edited by Professors Alexander Johnston of Princeton and James Albert Woodburn of Indiana University, and published by G. P. Putnam's Sons, New York. The first copyright was in 1896.

Professor Charles Kendall Adams, then of the University of Michigan, had compiled in similar manner "British Orations," published by the Putnams in 1884.

This has been largely drawn upon by the present editor in preparing the debates in Parliament on Colonial Rights.

The chief source of material for the debates in America during the Colonial and Revolutionary periods, the régime of the Confederation, and the administration of Washington, is "A Political and Civil History of the United States . . . to the close of the administration of President Washington," written by Timothy Pitkin, and published at New Haven, Ct., in 1828.

Mr. Pitkin was a representative in Congress, and took a leading part in its discussions. His biography will be found in the Index of Proper Names in Volume XIV. He shines as an editor no less than as an historian, since his work contains not only copious extracts from speeches, but also judicious selections of all the important protests and petitions of the Colonial legislatures, and the state papers of the Continental Congress, of the Congress under the Confederation, and those of the Washington Administration. The papers of the colonial legislatures and of the Continental Congress, being both argumentative in character and rhetorical in style, have been largely drawn upon in the present work, owing to the lack of preservation of the debates of this period.

For the period of the Revolution and the Confederation the "Journals of the Continental Congress 1774-1789," published by the Government Printing Office, 1906, have furnished considerable material.

Coming to the formation of the Constitution we find that "Debates on the Federal Constitution," by Jonathan Elliott (copyright 1836, and enlarged thereafter; now published by J. B. Lippincott Co., Philadelphia), is the standard work on its subject, being referred to constantly by both Northern and Southern statesmen from the time of its publication until the Civil War, upon the great questions of State Rights and Slavery. Abraham Lincoln made an exhaustive study of this work in preparing his great speech at Cooper Union in February, 1861, on "Slavery as the Fathers Viewed It."

Elliott (born in England 1784; died in Washington, D. C., 1846) emigrated to America about 1802, became

a printer, and then a soldier, fighting for South American liberty, 1810-1813, and serving in the American army in the War of 1812. In 1814 he settled in Washington, editing for thirteen years the "Washington Gazette." He published a number of statistical and documentary works relating to American politics, chief of which is his famous "Debates." He also edited the "Madison Papers" (1845), published by the Government. Of the five volumes of the Debates the first contains Ante-Revolutionary history, the documents relating to American independence, and the documents and speeches relating to the Confederation and the Constitution, including Judge Yates's Minutes of the Convention of 1787; the second, third, and beginning of the fourth, the debates in the State legislatures and conventions in the ratification of the Constitution; the rest of the fourth, the documents, speeches, and judicial decisions relating to Constitutional questions debated in Congress 1789-1836; and the fifth, Madison's report of debates in the Congress of the Confederation and in the Constitutional Convention of 1787.

Recently the gaps in "Elliott's Debates" have been filled by "The Records of the Federal Convention of 1787," edited by Max Farrand, Professor of History in Yale University, and published by the Yale University Press, New Haven, Ct., in 1911. It is an exhaustive monograph on the subject, including most interesting notes on the speakers in the Convention made by agents of the French government in America and preserved in that government's archives. These vivacious pen-sketches appear in Volume XIV of "Great Debates" in connection with the biographies of the statesmen referred to. They were translated for us by Mrs. Helen E. Meyer, who has admirably preserved the sparkling spirit of the original French.

The official and semi-official records of Congress from the adoption of the Constitution to the present time (1912) have furnished, with a few exceptions such as the Lincoln-Douglas joint debates, the material for all the volumes after the first. The Lincoln-Douglas debates have been abridged from the complete report in

"The Life and Works of Abraham Lincoln" (1907), produced by the editor and publishers of the present work. This collection has also been used to supply introductory matter for various other speeches of Lincoln, and the debates in his administration.

The first records of Congress were "The Debates and Proceedings in the Congress of the United States, Compiled from Authentic Materials," edited and published in Washington by two Congressional reporters, Gales and Seaton. The first two volumes appeared in 1834, and the five remaining volumes in 1849-51. These records, known by the briefer title of *Annals of Congress*, have supplied the materials in the present work of all the Congressional debates down to 1824, with the exception of certain speeches, such as Daniel Webster's, where recourse has been had to fuller reports in published works.

Most of the speeches were reported in the *Annals* in condensed form, where indirect discourse was generally adopted, though the speeches of the more distinguished and rhetorical statesmen were presented as delivered, if not in full, at least by extracts of the important passages. The selection of these passages and the abstracting of the other speeches are remarkably well done, Joseph Gales, Sr., in particular having a keen eye for salient points of argument.

The *Annals* is thoroughly indexed by subjects, and has an appendix containing the important state papers and public documents and all laws of a public nature. Gales and Seaton were aided in their work by the suggestion and advice of a number of statesmen, notably Madison, whose experience covered the history of Congress from the beginning.

Francis Blair, Sr. (see biography in Volume XIV), and John Cook Rives, a departmental clerk at Washington, founded the *Congressional Globe* in the early part of Jackson's administration. Rives soon became sole proprietor, and continued so until 1864, when he retired with a fortune, of which he gave liberally to the wives of enlisted soldiers, and for the equipment of regiments. There was less editing done by Blair and Rives than

to print" their speeches, in order that they might "frank" these to their constituents. Another practice which arose at this period was that of speakers "incorporating" in their remarks speeches of persons, chiefly candidates for office, who were not members of Congress, articles from magazines, and even entire books. One notable instance of the latter was the division of "Protection and Free Trade," written by Henry George, into six parts, and the incorporation of each by a Representative in his remarks on the McKinley Bill, the whole book thus becoming a public document, more than a million copies of which were franked by the so-called Free Trade Democrats all over the country, with the intention, and it is claimed, with the effect, of promoting the election of an anti-protection Congress.

The *Record* has thus become a great storehouse of valuable material of every sort of subject: political, social and economic. The present work makes available a select portion of its mass of heterogeneous information and argument, but this is necessarily in slight ratio to the whole. It would be a laudable act if Congress ordered a digest of the whole work arranged according to subjects. Failing this, the Government should certainly publish a logical index of all its published proceedings, with indications of what phase of each subject is treated on each page, that such an issue as the Tariff, for instance, could be intelligently followed by the student, with a great saving of his time and his temper.

WORKS OF REFERENCE

In view of the vast number of admirable treatises on American politics it seems invidious to single out any as specially helpful to readers of the present work who desire to pursue their researches beyond its pages. But the fact that a few works have been of special assistance to the editor should justify their mention.

The book which chiefly guided the author in the selection of debates before the Civil War is the "Constitutional and Political History of the United States"

by Gales and Seaton, the reports becoming more and more verbatim, until finally they were wholly so. The *Globe* continued until late in its life the practice of the *Annals* in recording the important public laws of Congress.

In 1857 Ex-Senator Thomas H. Benton, of Missouri, published an "Abridgment of the Debates of Congress from 1789 to 1856": D. Appleton and Company, New York.

Senator Benton derived the material for the first part of his work from the *Annals of Congress*, and for the latter part from the *Congressional Globe*.

These "Abridgments" are notable specimens of editing, as might be expected of a statesman of such profound ability and long service, as well as of the experienced author of "The Thirty Years' View." Nevertheless he slighted certain discussions which, owing to circumstances, have become of greater interest to readers of the present day than they were to those of his own era, and for these the present editor has reverted to the original sources. It should be remarked in this connection that many American historians have evidently been misled by following Benton. Thus Alexander Johnston, in his "American Political History," gives James Madison and Thomas Jefferson the credit for first presenting, in the Kentucky and Virginia Resolutions and the controversy concerning them, leading constitutional arguments against the Alien and Sedition Laws, which arguments, says Johnston, had been overlooked by the Anti-Federalist statesmen in Congress. Now the *Annals of Congress* show that Albert Gallatin and Edward Livingston had presented these very arguments most ably and completely. Benton, however, did not preserve them in his "Abridgement."

The *Congressional Record* succeeded the *Globe* on March 4th, 1873. As in the later issues of the *Globe*, the laws of Congress were omitted from its appendixes, since these now appeared by themselves in another form of public documents. Nevertheless the appendixes in time became larger than before, owing to the increasing practice of speakers, especially in the House, asking "leave

by Dr. Hermann von Holst, published by Callaghan and Company, Chicago, in 1889.

This is a work typical of German scholarship, containing views whose prevailing soundness is the almost mechanical result of a vast reading of original documents. Unfortunately the learned author's mind works along a line of thought the methodical principle of which it is difficult for the average American reader to perceive. Conclusions are often stated in advance of the information upon which they are based, so that the reader does not fully understand one point until he is in the throes of puzzlement over a new one. But, although the work is thus rendered difficult to read, it will repay study, so just are the author's judgments on both the political issues and the character of statesmen.

As has been mentioned, Senator Benton published a work entitled "Thirty Years' View": D. Appleton and Company, New York, 1854. This is a history of Congress from 1820 to 1850, during which period the author was a Senator from Missouri. He thus speaks of his qualifications:

I was in the Senate the whole time of which I write—an active business member, attending and attentive—in the confidence of half the administrations, and a close observer of the others—had an inside view of transactions of which the public only saw the outside, and of many of which the two sides were very different—saw the secret springs and hidden machinery by which men and parties were to be moved, and measures promoted or thwarted—saw patriotism and ambition at their respective labors, and was generally able to discriminate between them. So far, I have one qualification; but Mr. Macaulay says that Lord Lytton had the same, and made but a poor history, because unable to use his material. So it may be with me; but, in addition to my senatorial means of knowledge, I have access to the unpublished papers of General Jackson, and find among them some that he intended for publication, and which will be used according to his intention.

This work has been used by the present editor not only for historical reference, but also as a source of material, since it contains copious extracts from important

debates, chiefly on Slavery and Finance. He has, however, reduced somewhat the part which Senator Benton represented himself as performing in these controversies—the story is characteristic, if not well authenticated, that the Senator once condescendingly remarked of President Jackson that “Old Hickory” had been of “considerable assistance” to him (“Old Bullion”) in the war against the United States Bank.

For the political history of the Civil War and the causes leading up to it, “The American Conflict,” by Horace Greeley (published by O. D. Case and Company, Hartford, Ct., in 1865) is, though biased in favor of the North, a work which cannot be overlooked by any author, editor, or student dealing with the subject. It has furnished the present editor not only with information for use in introductions, but also with the text of several controversial speeches delivered outside of Congress.

Of the many books containing digests of the speeches at the outbreak of the Civil War, the “History, Civil, Political, and Military, of the Southern Rebellion,” by Orville J. Victor (published by J. D. Torrey, New York, in 1861) should be here mentioned, as it was largely used by the present editor in preparing the debates on the proposals of Conciliation made in Congress in 1860-61.

In similar fashion the “History of the Thirty-ninth Congress,” by William H. Barnes (Harper and Brothers, New York, 1868) was of great assistance in the preparation of the debates on Reconstruction, etc., in the period immediately following the Civil War.

The chief guide to the debates of the entire Reconstruction period was “Twenty Years of Congress,” by James G. Blaine (Henry Bell Publishing Company, Norwich, Ct., 1884). On the issues subsequent to Reconstruction the book was unfortunately of little assistance, for the last twelve years of the period discussed were summarily disposed of in less than one-fourth of the work, the author having apparently constructed the beginning on the basis of at least a four-volume book, only to decide later to close it in two volumes. Thus the

This historical treatise sets forth the documentary evidence as to Pelatiah Webster’s “invention” of the plan of Federal Government, afterwards adopted in the main in the Constitution, and also discusses the adoption of the Constitution, and the constitutional issues in subsequent American political history. The documents appear in the appendix, and are very thoroughly annotated, the Constitution of the United States and its Amendments having citations appended of legal decisions concerning the same.

SCHEME OF THE SERIES

A logical order has been adopted for the presentation of the debates, which adheres so far as possible to the chronological order. Fortunately in presenting the early debates the logical and chronological orders exactly coincide, the subjects of Colonial Rights, Independence and Formation of the Constitution coming in causative succession, uninterrupted by any other issues. Volume I thus forms, as it were, an introduction to all the rest of the work. Having this character, those great documents of American constitutional history, the Declaration of Independence, the Articles of Confederation, and the Constitution, which are constantly referred to in the debates in the later volumes, are here inserted, as also are minor related state papers, such as the addresses of colonial assemblies, of the Continental Congresses, and of State Legislatures, an example of the last being the Virginia Bill of Rights. The “Federalist Papers” are also presented in the form of a digest, with a two-fold justification for their insertion: they are referred to constantly by the later debaters as the earliest and most authoritative commentaries on the Constitution, and have themselves the character of debates, since they quote and answer prevalent objections to the Constitution.

Formal debates were infrequent in colonial America, and only the substance of the few that occurred has been preserved. Accordingly it is to the recorded debates on colonial affairs, which took place in the British

great question of the Free Coinage of Silver, which arose in the closing part of the author’s Congressional career, is hardly touched upon. Up to the close of Johnson’s Administration, however, the work forms one of the best examples of American political history, so clear is the exposition of situations, so judicious the selection of argumentative points, so admirable the digest of speeches, and so sound are the author’s own comments thereon.

A very valuable general guide to the editor was “American Political History, 1763-1876,” by the editors of “American Orations,” Professors Johnston and Woodburn [G. P. Putnam’s Sons, 1905]. This work is logically arranged, covering the subject of the Revolution, the Constitution, the Growth of Nationality, Slavery, Civil War, and Reconstruction. The information is compact and well selected, and presented in clear and orderly fashion. The editorial conclusions, which are founded upon the historical statements, are convincing in tone, and can be overthrown or modified only by a more complete presentation of the basic facts.

As accompanying and supplementing this work almost down to date, the reader will find a little primer entitled “American Politics,” by Professor Johnston and Professor Winthrop M. Daniels, also of Princeton, to be of great value for ready reference, the subject being treated by Presidential Administrations. Useful lists, such as of Cabinet officers, are included in the Appendix. The work is published by Henry Holt and Company, New York.

The larger work of Professor Johnston, “American Political History,” contains extensive bibliographies upon each of its subjects, including almost every important book on American politics and economics which was published before 1905.

With this reference the reader will excuse us for not enlarging the present bibliography, beyond noting one important work recently published. This is “The Origin and Growth of the American Constitution,” by Hannis Taylor, LL.D., ex-Minister to Spain: Houghton, Mifflin Company, Boston, 1911.

Parliament, that we must chiefly turn, presenting the single speeches of American orators and the even more argumentative protests of the colonial assemblies as a supplement to the arguments of the British contenders for American rights. Volume I is therefore a record of public controversies, as well as of debates proper, and as such is more historical in character than the remaining volumes.

Since the most vital questions, when our new Government was struggling to establish its place among the nations of the earth, were those dealing with Foreign Relations, Volumes II and III contain the great debates upon this subject from Washington’s Administration to the war with Spain and the diplomatic questions connected with the Panama Canal. Various debates on Foreign Affairs are inserted in other volumes because of their intimate connection with the subjects of these. Thus the Koszta affair appears in the first volume on Civil Rights.

Because our domestic history for the first three-quarters of our Constitutional history largely centered around slavery, this subject is taken up in Volume IV. The volume closes with the debate on the Dred Scott decision, and Volume V, reverting to the early debates on State’s Rights Not Connected with Slavery (such as the Webster-Hayne debate), comes quickly down to the Lincoln-Douglas debates, the result of which precipitated upon the country the question of secession, in connection with slavery. The volume continues the debates on Secession and Slavery down to, and including, the debate on the Conciliation bill in the closing months of Buchanan’s Administration.

Volume VI contains the debates of Lincoln’s Administration, or the Civil War period, with the exceptions of debates on Reconstruction, which will be found in the succeeding volume on Civil Rights, and of debates on Revenue and Finance, which will be found in Volumes XII and XIII, bearing these titles.

Volumes VII and VIII are on Civil Rights. The first reverts to the early discussions on Naturalization, continues with the famous debates on the Alien and

Sedition Laws, and the related question of State Rights, and, touching upon the question of Nativism (the "Know-Nothing" movement), comes down to the Reconstruction period, and, taking up the question of Negro Rights where Volume VI left it, presents the debates on the Fourteenth Amendment. Volume VIII contains the debates on Negro Suffrage, ending with the Fifteenth Amendment, and then, the discussion of the negro being closed, takes up the debates on Indian Rights. The question of Woman's Rights is then presented, and the volume closes with debates on Polygamy, which, in its constitutional aspect, is a question of Civil Rights.

Volume IX contains debates on the powers and functions of the Departments of Government, Executive (President, Army, Navy), Legislative (Senate, House) and Judicial (Supreme Court), as well as debates on the related question of Civil Service Reform, and on the governmental powers and functions of the sovereign behind all the Departments—the People. Subjects treated in the last connection are Popular Election of President and Senators, Direct Legislation, and Recall of Judges and Judicial Decisions.

Volumes X and XI are on Economic and Social problems. In the first are debates on the Land Question (including the Homestead and Conservation laws and the Single Tax theory), and on the Railroad Question (centering around the power of the Federal Government over Interstate Commerce). The second volume contains debates on the Federal control of Trusts, on Labor legislation, on Socialism, Prohibition of the Liquor Traffic, National Regulation of Foods, etc.

Volume XII contains debates on Revenue, the chief subject being the Tariff, all the tariff acts from the revenue measures of the First Congress to the Payne-Aldrich Act being presented in chronological order, each clearly delimited from the rest by its specific issue. In close connection with the particular tariff or revenue bills which presented them, the subjects of Internal Revenue, Income, Inheritance and Corporation Taxes, and of Reciprocity with Canada are treated.

PREFACE

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ILLUSTRATIONS

The volumes are illustrated with scenes of great debates and portraits of leading debaters, and with contemporary political cartoons relating to the subjects of the debate and the personality of the debaters. Indeed, the term "illustrated" is too weak a term to state the connection of the pictures with the text, for an apt cartoon is in itself the most effective of arguments, often exceeding in results the longest and most learned demonstration of an orator. Thomas Nast's cartoons of the Reconstruction period appealed on behalf of the Negro more movingly even than the pathetic periods of Charles Sumner, and Homer Davenport's symbolization of the Trust as a brutal giant was more convincing than the diatribes of any of the Populist orators against the "soulless corporations."

In this connection acknowledgment is made of the courtesy extended by the New York Public Library and the New York Historical Society in permitting the reproductions of many of the cartoons in their collections. To W. F. Brainard, of New York City, well known as an expert in "book-building," I would also extend thanks, for sifting the large number of editorially appropriate cartoons through the meshes of artistic and mechanical availability.

In conclusion I would express my appreciation of the services of my editorial assistant, Wilbert W. Blake-man. In such portions of the work as the early debates on the Tariff he has shown ability unusual in a young editor by selecting those points of the subject which are vital to-day, and reducing to the essential minimum those points which tempt the editor by their historical significance to expatiate upon them. By such procedure he has saved much needed space for the more important tariff debates of recent times.

M. M. Miller

Volumes XIII and XIV contain debates on Finance. The main subjects of the first volume are Public Credit [questions of Repudiation, etc.], National Banks, "Greenback" or Specie Currency. The last volume deals exclusively with the Silver Question.

Volume XIV also contains the General Index of the Series. This is divided into two parts: an Index of Proper Names (persons and places), and an Index of Subjects.

These indexes are synoptical in character, enabling the reader to prepare from them his own debates, biographical sketches of debaters, etc.

INTRODUCTIONS

Never before, it is believed, has a work of this nature possessed as its editorial contributors persons of the eminence and authority which distinguish the authors of the introductions of the volumes of the present series. Here they are: the President of the United States; the two living ex-Presidents; the Secretary of State; two Senators, one a noted historian, and the other an eminent financial expert; three university presidents and one professor of economics, each an authority in the subject which he discusses; the dean of American journalists, and a woman whose rank both as a journalist and economic historian is exceeded by no other writer in America; and two representative men of letters, the one the chief living member of the most distinguished family of New England, the other the scion of an old Virginia house noted for service to nation and State—he himself being the American Ambassador to the Court of St. James.

Some of the introductions were written after the author had carefully read the proof sheets of the volume in which the introduction was to appear; others were composed upon a general knowledge of the contents of the volume, and the rest were adapted by the authors from former addresses or articles on subjects appropriate to the volume. Thanks for permission to use the adapted articles are herewith extended to the publishers as well as to the authors.

VOLUME ONE
COLONIAL RIGHTS—THE REVOLUTION
THE CONSTITUTION

INTRODUCTION

THE CONSTITUTION AND ITS MAKERS¹

BESIDE the question of the maintenance or destruction of the Constitution of the United States all other questions of law and policy sink into utter insignificance. In its presence party lines should disappear and all sectional differences melt away like the early mists of dawn before the rising sun. The Constitution is our fundamental law. Upon its provisions rests the entire fabric of our institutions. It is the oldest of written constitutions. It has served as a model for many nations, both in the Old World and in the New. It has disappointed the expectations of those who opposed it, convinced those who doubted, and won a success beyond the most glowing hopes of those who put faith in it. Such a work is not to be lightly cast down or set aside, or, which would be still worse, remade by crude thinkers and by men who live only to serve and flatter in their own interest the emotion of the moment. We should approach the great subject as our ancestors approached it—simply as Americans with a deep sense of its seriousness and with a clear determination to deal with it only upon full knowledge and after the most mature and calm reflection. The time has come to do this, not only here and now, but everywhere throughout the country.

Let us first consider who the men were who made the Constitution and under what conditions they worked. Then let us determine exactly what they meant to do—a most vital point, for much of the discussion to which

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GREAT AMERICAN DEBATES

we have been treated thus far has proceeded upon a complete misapprehension of the purpose and intent of the framers of the Constitution. Finally, let us bring their work and their purposes to the bar of judgment, so that we may decide whether they have failed, whether in their theory of government they were right or wrong then and now, or whether their work has stood the test of time, is broad based on eternal principles of justice, and, if rent or mangled or destroyed, would not in its ruin bring disaster and woes inestimable upon the people who shall wreck their great inheritance and, like

The base Indian, throw a pearl away,
Richer than all his tribe.

First, then, of the men who met in Philadelphia in May, 1787, with doubts and fears oppressing them, but with calm, high courage and with a noble aspiration to save their country from the miseries which threatened it, to lead it out from the wilderness of distractions in which it was wandering blind and helpless, into the light, so that the chaos, hateful alike to God and men, might be ended and order put in its place. It is the fashion just now to speak of the framers of the Constitution as worthy, able, and patriotic persons whom we are proud to have embalmed in our history, but toward whom no enlightened man would now think of turning seriously for either guidance or instruction, so thoroughly has everything been altered and so much has intelligence advanced. It is commonly said that they dealt wisely and well with the problems of their day, but that of course they knew nothing of those which confront us, and that it would be worse than folly to be in any degree governed by the opinions of men who lived under such wholly different conditions. It seems to me that this view leaves something to be desired and is not wholly correct or complete. I certainly do not think that all wisdom died with our fathers, but I am quite sure that it was not born yesterday. I fully realize that in saying even this I show myself to be what is called old fashioned, and I know that a study of his-

¹ Adapted from an address delivered before the Literary and Historical Association of North Carolina, at Raleigh, on November 28, 1911.

tory, which has been one of the pursuits of my life, tends to make a man give more weight to the teachings of the past than it is now thought they deserve. Yet, after all allowance is made, I can not but feel that there is something to be learned from the men who established the Government of the United States, and that their opinions, the result of much and deep reflection, are not without value, even to the wisest among us.

On questions of this character, I think, their ideas and conclusions are not lightly to be put aside; for, after all, however much we may now gently patronize them as good old patriots long since laid in their honored graves, they were none the less very remarkable men, who would have been eminent in any period of history and might even, if alive now, attain to distinction. Let us glance over the list of delegates to the Constitutional Convention in Philadelphia in 1787. I find, to begin with, that their average age was 43, which is not an extreme senectitude, and the ages range from Franklin, who was 81, to John Francis Mercer, of Virginia, who was 28. Among the older men who were conspicuous in the convention were Franklin, with his more than 80 years; Washington, who was 55; Roger Sherman, who was 66; and Mason and Wythe, of Virginia, who were both 61. But when I looked to see who were the most active forces in that convention, I found that the New Jersey plan was brought forward by William Paterson, who was 42; that the Virginia plan was proposed by Edmund Randolph, who was 34; while Charles Pinckney, of South Carolina, whose plan played a large part in the making of the Constitution, was only 29. The greatest single argument, perhaps, which was made in the convention was that of Hamilton, who was 30. The man who contributed more, possibly, than any other to the daily labors of the convention and who followed every detail was Madison, who was 36. The Connecticut compromise was very largely the work of Ellsworth, who was 42; and the committee on style, which made the final draft, was headed by Gouverneur Morris, who was 35. Let us note, then, at the outset that youth and energy, abounding hope, and the sympathy for the new

1787, would seek to make it over with all modern improvements, and who with unconscious humor declare that they are engaged in the restoration of popular government.

That phrase is in itself suggestive. That which has never existed cannot be restored. If popular government is to be restored in the United States it must have prevailed under the Constitution as it is, and yet those who just now are so devoured by anxiety for the rights of the people propose to effect the restoration they demand by changing the very Constitution under which popular government is admitted by their own words to have existed. I will point out presently the origin of this confusion of thought. It is enough to say now that for more than a century no one questioned that the government of the Constitution was in the fullest sense a popular government. In 1863 Lincoln, in one of the greatest speeches ever uttered by man, declared that he was engaged in trying to save government by the people. Nearly thirty years later, when we celebrated the one hundredth anniversary of the Constitution, the universal opinion was still the same. All men then agreed that the Government which had passed through the fires of civil war was a popular government. Indeed, this novel idea of the loss of popular government which it is proposed to restore by mangling the Constitution under which it has existed for more than a century is very new; in fact, hardly ten years old.

This first conception of our Constitution as an instrument of popular government, so long held unquestioned, was derived from the framers of the Constitution themselves. They knew perfectly well that they were founding a government which was to be popular in the broadest sense. The theory now sedulously propagated, that these great men did not know what they were about, or were pretending to do one thing while they really did another, is one of the most fantastic delusions with which agitators have ever attempted to mislead or perplex the public mind. The makers of the Constitution may have been right or they may have been wrong in the principles upon which they acted or in the

times stretching forward into the great and uncharted future, as well as high ability, were conspicuous among the men who framed the Constitution of the United States.

Their presiding officer was Washington, one of the great men of all time, who had led the country through seven years of war, and of whom it has been said by an English historian that "no nobler figure ever stood in the forefront of a nation's life." Next comes Franklin, the great man of science, the great diplomatist, the great statesman and politician, the great writer; one of the most brilliant intellects of the eighteenth century, who in his long life had known cities and men as few others have ever known them. There was Hamilton, one of the greatest constructive minds that modern statesmanship has to show, to whose writings German statesmen turned when they were forming their empire forty years ago, and about whom in these later days books are written in England, because Englishmen find in the principal author of "The Federalist" the great exponent of the doctrines of successful federation. There, too, was Madison, statesman and lawmaker, wise, astute, careful, destined to be, under the Government which he was helping to make, Secretary of State and President. Roger Sherman was there, sagacious, able, experienced; one of the leaders of the Revolution and a signer of the Declaration of Independence, as he was of the Constitution. Great lawyers were present in Philadelphia in that memorable summer of 1787, such men as Ellsworth and Wilson and Mason and Wythe. It was, in a word, a very remarkable body which assembled to frame a constitution for the United States. Its members were men of the world, men of affairs, soldiers, lawyers, statesmen, diplomatists, versed in history, widely accomplished, deeply familiar with human nature. I think that, without an undue or slavish reverence for the past or for the men of a former generation, we may fairly say that in patriotism and in intellect, in knowledge, experience, and calmness of judgment, these framers of the Constitution compare not unfavorably with those prophets and thinkers of to-day who decry the work of

work they accomplished, but they knew precisely what they meant to do and why they did it. No man in history ever faced facts with a clearer gaze than George Washington, and when, after the adjournment of the convention, he said, "We have raised a standard to which the good and wise can repair; the event is in the hands of God," he labored under no misapprehension as to the character of the great instrument where his name led all the rest.

It is the fashion to say that since then great changes have occurred and wholly new conditions have arisen of which the men of 1787 could by no possibility have had any knowledge or anticipation. This is quite true. They could not have foreseen the application of steam to transportation, or of electricity to communication, which have wrought greater changes in human environment than anything which has happened to man since those dim, prehistoric, unrecorded days when some one discovered the control of fire, invented the wheel, and devised the signs for language, masterpieces of intelligence with which even the marvels of the last century cannot stand comparison. The men of the Constitution could as little have foreseen what the effects of steam and electricity would be as they could have anticipated the social and economic effects of these great inventions or the rapid seizure of the resources of nature through the advances of science and the vast fortunes and combinations of capital which have thus been engendered. Could they, however, with prophetic gaze have beheld in a mirror of the future all these new forces at work, so powerful as to affect the very environment of human life, even then they would not, I think, have altered materially the Constitution which they were slowly and painfully perfecting. They would have kept on their way, because they would have seen plainly what is now too often overlooked and misunderstood, that all the perplexing and difficult problems born of these inventions and of the changes, both social and economic, which have followed were subjects to be dealt with by laws as the questions arose, and laws and policies were not their business. They were not making laws to

regulate or to affect either social or economic conditions. Their work was not only higher but far different. They were laying down certain great principles upon which a government was to be built and by which laws and policies were to be tested as gold is tested by a touchstone.

There is no greater fallacy than to suppose that new and fundamental principles of government are constantly to be invented and wrought out. Laws change and must change with the march of humanity across the centuries as it alteration finds in the conditions about it, but fundamental principles and theories of government are all extremely old.

If you will read "The Republic" and "The Laws" of Plato and supplement that study by an equally careful examination of what Aristotle has to say on government you will find that those great minds have not only influenced human thought from that time to this, but that there is little which they left unsaid. It is the fashion, for example, to speak of socialism as if it were something new, a radiant discovery of our own time which is to wipe away all tears. The truth is that it is very old, as old in essence as human nature, for it appeals to the strong desire in every man to get something for nothing and to have someone else bear his burdens and do his work for him. As a system it is amply discussed by Plato, who, in "The Republic," urges measures which go to great extremes in this direction. In the fourth century of our era a faction called the Circumcellions were active as socialists and caused great trouble within the weakening Empire of Rome. The real difficulty historically with the theories of socialism is not that they are new, but that they are very, very old, and wherever they have been put in practical operation on a large scale they have resulted in disorder, retrogression, and in the arrest of civilization and progress.

In order to reach the essence of what the makers of the Constitution tried and meant to do, which it is most important to know and reflect upon deeply before we seek to undo their work, let us begin by dismissing from our consideration all that is unessential or misleading.

INTRODUCTION

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affect the fundamental principles on which the Government rests.

By making these omissions we come now to the vital point, which is, What kind of a government did the makers of the Constitution intend to establish and how did they mean to have it work? They were, it must be remembered, preparing a scheme of government for a people peculiarly fitted to make any system of free institutions work well. The people of the United Colonies were homogeneous. They came in the main from Great Britain and Ireland, with the addition of the Dutch in New York, of some Germans from the Palatinate, and of a few French Huguenots, whose ability and character were as high as their numbers were relatively small. But an overwhelming majority of the American people in 1787 were of English and Scotch descent, and they, as well as the others from other lands, were deeply imbued with all those principles of law which were the bulwarks of English liberty. In this new land men had governed themselves and there was at that moment no people on earth so fit or so experienced in self-government as the people of the thirteen colonies. Their colonial governments were representative and in essence democratic. They became entirely so when the Revolution ended and the last English governor was withdrawn. In the four New England colonies local government was in the hands of the town meetings, the purest democracies then or now extant, but it is best to remember, what the men of 1787 well knew, that these little democracies moved within fixed bounds determined by the laws of the States under which they had their being.

For such a people, of such a character, with such a past and such habits and traditions, only one kind of government was possible, and that was a democracy. The makers of the Constitution called their new Government a republic, and they were quite correct in doing so, for it was of necessity republican in form. But they knew that what they were establishing was a democracy. One has but to read the debates to see how constantly present that fact was to their minds. Democracy was

Let us lay aside first the word republic, for a republic denotes a form and not a principle. A republic may be democratic like ours, or an autocracy like that of Augustus Caesar, or an oligarchy like Venice, or a changing tyranny like some of those visible in South America. The word has become as inaccurate, scientifically speaking, as the word monarchy, which may be in reality a democracy as in England or Norway, constitutional as in Italy, or a pure despotism as in Russia. Let us adhere in this discussion to the scientifically exact word "democracy." Next let us dismiss all that concerns the relations of the States of the National Government. Federation was the great contribution of the Philadelphia convention to the science of government. The framers of the Constitution, if they did not invent the principle, applied it on such a scale and in such a way that it was practically a discovery, a venture both bold and new, as masterly as it was profoundly planned. With the love of precedents characteristic of their race they labored to find authority and example in such remote and alien arrangements as the Achaian League and the Amphictyonic Council, but the failure of these precedents as such was the best evidence of the novelty and magnitude of their own design. Their work in this respect has passed through the ordeal of a great war; it has been and is to-day the subject of admiration and study on the part of foreign nations, and not even the most ardent reformer of this year of grace would think, in his efforts to restore popular government, of assailing the Union of Sovereign States. Therefore we may pass by this great theme which was the heaviest part of the task of our ancestors.

In the same way we may dismiss, much as it troubled the men of 1787, all that relates to the machinery of government, such as the electoral college, the tenure of office, the methods of electing Senators and Representatives, and the like. These matters are important; many active thinkers in public life seek to change them, not for the better, as I believe, but none the less these provisions concern only the mechanism of government; they do not go to the root of the matter, they do not

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GREAT AMERICAN DEBATES

then a very new thing in the modern world. As a system it had not been heard of, except in the fevered struggles of the Italian city republics, since the days of Rome and Greece, and although the convention knew perfectly well that they were establishing a democracy and that it was inevitable that they should do so, some of them regarded it with fear and all with a deep sense of responsibility and caution. The logical sequence as exhibited in history and as accepted by the best minds of the eighteenth century, struggling to give men a larger freedom, was democracy—*anarchy*—*despotism*. The makers of the Constitution were determined that so far as in them lay the American Republic should never take the second step, never revolve through the vicious circles which had culminated in empire in Rome, in the tyrants of the Grecian and the despots of the Italian cities, which is their turn had succumbed to the absolutism of foreign rulers.

The vital question was how should this be done; how should they establish a democracy with a strong government—for after their experience of the Confederation they regarded a weak government with horror—and at the same time so arranged the Government that it should be safe as well as strong and free from the peril of lapsing into an autocracy on the one hand, or into disorder and anarchy on the other? They did not try to set any barrier in the way of the popular will, but they sought to put effective obstacles in the path to sudden action which was impelled by popular passion, or popular whim, or by the excitement of the moment. They were the children of the "Great Rebellion" and the "Blessed Revolution" in the England of the seventeenth century, and they were steeped in the doctrine of limiting the power of the King. But here they were dealing with a sovereign who could not be limited, for, while a king can be limited by transferring his power to the people, when the people are sovereign their powers cannot be transferred to anybody. There is no one to transfer them to, and if they are taken away the democracy ceases to exist and another government, fundamentally different, takes its place.

The makers of the Constitution not only knew that the will of the people must be supreme, but they meant to make it so. That which they also aimed to do was to make sure that it was the real will of the people which ruled and not their momentary impulse, their well-considered desire and determination and not the passion of the hour, the child, perhaps, of excitement and mistake inflamed by selfish appeals and terrorized by false alarms. The main object, therefore, was to make it certain that there should be abundant time for discussion and consideration, that the public mind should be thoroughly and well informed, and that the movements of the machinery of government should not be so rapid as to cut off due deliberation. With this end in view they established with the utmost care a representative system with two chambers and an executive of large powers, including the right to veto bills. They also made the amendment of the Constitution a process at once slow and difficult, for they intended that it should be both, and indeed that it should be impracticable without a strong, determined, and lasting public sentiment in favor of change.

Finally they established the Federal judiciary, and in the Supreme Court of the United States they made an addition to the science of government second only in importance to their unequalled work in the development of the principle of federation. That great tribunal has become in the eyes of the world the most remarkable among the many remarkable solutions devised by the convention of 1787 for the settlement of the gravest governmental problems. John Marshall, with the intellect of the jurist and the genius of the statesman, saw the possibilities contained in the words which called the court into being. By his interpretation and that of his associates and their successors the Constitution attained to flexibility and escaped the rigidity which then and now is held up as the danger and the defect of a written instrument. In their hands the Constitution has been expanded to meet new conditions and new problems as they have arisen. In their hands also the Constitution has been the protection of the rights of States and the

CHAPTER I

THE STAMP ACT

Proposal in the British Parliament of a Colonial Stamp Act—Colonial Opposition—Passage of the Act: in favor, Sir George Grenville and Sir Charles Townshend; opposed, Gen. Henry Seymour Conway, Alderman Beckford, Mr. Jackson, Sir William Meredith, and Col. Isaac Barré—Tilt between Townshend and Barré—Debate on the Resolutions of Patrick Henry against the Act in the Virginia Assembly: in favor, Mr. Henry, George Johnson and Richard Henry Lee; opposed, Peyton Randolph—Stamp Act Congress—Boycott of Stamps—Sons of Liberty—Speech of John Adams [Mass.]: "Our Blood-bought Liberty"—Daniel Dulany [Md.] on the Stamp Act Riots.

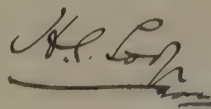
THE acts of Parliament restraining the trade and manufacture of the colonies were deemed by the colonists, in some instances, a violation of their rights, and in others an unnecessary and improper sacrifice of their interest to the supposed interest of the parent country, or some other more favored part of the British empire; and they had, accordingly, been very little regarded.

A distinction had been made by the colonists between what were called external and internal taxes, the former being considered as imposed for the regulation of the trade of the empire, and not for the purpose of revenue. Plans of laying internal taxes and of drawing a revenue from the colonies had been at times suggested to the ministry, and particularly to Sir Robert Walpole and Mr. William Pitt during their respective administrations, but these statesmen were too wise and sagacious to adopt them.

The first attempt to draw a revenue directly from the colonies was made after the power of the French in America had been reduced. This was deemed a favorable moment to call upon the Americans for taxes to

rights of men, and laws which violated its principles and its provisions have been set aside.

By making the three branches of the Government, the executive, the legislative, and the judicial, entirely separate and yet coördinate, and by establishing a representative system and creating a Supreme Court of extraordinary powers, the framers of the Constitution believed that they had made democracy not only all powerful but at the same time safe and that they had secured it from gradual conversion into autocracy on the one hand and from destruction by too rapid motion and too quick response to the passions of the moment on the other. If ever men were justified by results they have been. The Constitution in its development and throughout our history has surpassed the hopes of its friends and utterly disappointed the predictions and the criticisms of its foes. Under it the United States has grown into the mighty republic we see to-day. New States have come into the Union, vast territories have been acquired, population and wealth have increased to a degree which has amazed the world, and life, liberty, and property have been guarded beneath the flag which is at once the symbol of the country and of the Constitution under which the nation has risen to its high success.



assist in the payment of a debt which had been incurred, as was alleged, in a great measure for their protection against a powerful enemy, who was now no longer an object of their dread.

Soon after George Grenville became Prime Minister, the project of imposing internal taxes in America was carried into effect. In the winter of 1764 that minister called together the agents of the colonies, and gave them notice of his intention of drawing a revenue from the colonies, saying that for this purpose he should in the ensuing session of Parliament propose a duty on stamps.

Soon after this, resolutions were passed in the House of Commons continuing and making perpetual the duties on sugar, molasses, and some other articles imported into the colonies, with additions and amendments.

MEMORIALS OF THE COLONIES

These ministerial and parliamentary proceedings were soon communicated to the colonies by their agents. The colonists at once took the alarm, particularly at the contemplated stamp duty; and, instead of yielding to it, or providing an equivalent according to the suggestion of the minister, they reiterated, though in a more full and ample manner, the declarations so often made by their ancestors, that they could be taxed only in their colonial legislatures, where, and where alone, they were represented. The people of Boston, at their meeting in May, 1764, instructed their representatives to the general court on this important subject. In these instructions (which were drawn by Samuel Adams, one of the committee appointed for that purpose), after commenting on the sugar and molasses act, they proceed to observe:

But our greatest apprehension is that these proceedings may be preparatory to new taxes; for, if our trade may be taxed, why not our lands? Why not the products of our lands and every thing we possess or use? This, we conceive, annihilates our charter rights to govern and tax ourselves. It strikes at our British privileges, which, as we have never forfeited, we

hold in common with our fellow subjects who are natives of Britain. If taxes are laid upon us, in any shape, without our having a legal representation where they are laid, we are reduced from the character of free subjects to the state of tributary slaves.

We, therefore, earnestly recommend it to you to use your utmost endeavors to obtain from the general court all necessary advice and instruction to our agent at this most critical juncture. We also desire you to use your endeavors that the other colonies, having the same interests and rights with us, may add their weight to that of this province; that by united application of all who are aggrieved all may obtain redress.

This was the first public act in the colonies in opposition to the ministerial plans of drawing a revenue directly from America; and it contained the first suggestion of the propriety of that mutual understanding and correspondence among the colonies which laid the foundation of their future confederacy.

The House of Representatives of Massachusetts, in June following, declared:

That the sole right of giving and granting the money of the people of that province was vested in them, or their representatives; and that the imposition of duties and taxes by the Parliament of Great Britain upon a people not represented in the House of Commons is absolutely irreconcilable with their rights. That no man can justly take the property of another without his consent; upon which original principles the power of making laws for levying taxes, one of the main pillars of the British constitution, is evidently founded.

The same sentiments are expressed, though in stronger language, in their letter of instructions to their agent:

If the colonists are to be taxed at pleasure without any representatives in Parliament, what will there be to distinguish them, in point of liberty, from the subjects of the most absolute prince? If we are to be taxed, at pleasure, without our consent, will it be any consolation to us that we are to be assessed by an hundred instead of one? If we are not represented we are slaves.

that when, as subjects, all have equal merits, a fatal, nay the most odious, discrimination should nevertheless be made between them, no sophistry can recommend to the sober impartial decision of common sense.

While the Assembly of New York acknowledged that Parliament had a right to regulate the trade of the colonies, they declared that, in doing this, they had not the right of imposing duties for the purpose of revenue.

On this subject, they say to the House of Commons with equal boldness:

But a freedom to drive all kinds of traffic, in subordination to, and not inconsistent with, the British trade, and an exemption from all duties in such a course of commerce, is humbly claimed by the colonies as the most essential of all the rights to which they are entitled as colonists and connected in the common bond of liberty with the free sons of Great Britain. For, with submission, since all impositions, whether they be internal taxes, or duties paid for what we consume, equally diminish the estates upon which they are charged, what avails it to any people by which of them they are impoverished?

Everything will be given to preserve life; and, though there is a diversity in the means, yet the whole wealth of a country may be as effectually drawn off by the exaction of duties as by any other tax upon their estates.

In conclusion the Assembly declare:

They have no desire to derogate from the power of the Parliament of Great Britain; but they cannot avoid deprecating the loss of such rights as they have hitherto enjoyed, rights established in the first dawn of our constitution, founded upon the most substantial reasons, confirmed by invariable usage, conducive to the best ends; never abused to bad purposes, and with the loss of which, liberty, property, and all the benefits of life tumble into insecurity and ruin; rights, the deprivation of which will dispirit the people, abate their industry, discourage trade, introduce discord, poverty and slavery; or, by depopulating the colonies, turn a vast, fertile, prosperous region into a dreary wilderness, impoverish Great Britain, and shake the power and independence of the most opulent and flourishing empire in the world.

The House at the same time appointed a committee to sit in the recess of the court, to write to the other colonies requesting them to join in applying for a repeal of the sugar act, and in preventing the passage of the act laying stamp duties, or any other taxes, on the American provinces.

In the course of the year 1764 petitions to the King and both houses of Parliament were prepared in many of the colonies, and sent to their agents.

The petitions of the Assembly of New York were drawn with great ability, and breathed a spirit more bold and decided than those from any other colony.

An exemption from the burden of ungranted and involuntary taxes must be the grand principle of every free state. Without such a right vested in themselves, *exclusive of all others*, there can be no liberty, no happiness, no security; it is inseparable from the very idea of property; for who can call that his own which may be taken away at the pleasure of another and so evidently does this appear to be the *natural right* of mankind, that even conquered tributary states, though subject to the payment of a fixed periodical tribute, never were reduced to so absolute and forlorn a condition as to yield to all the burdens which their conquerors might, at any future time, think fit to impose. The tribute paid, the debt was discharged; and the remainder they would call their own.

And if conquered vassals, upon the principle of mutual justice, may claim a freedom from assessments, unbounded and unassented to, without which they would suffer the loss of everything, and life itself become intolerable, with how much propriety and boldness may we proceed to inform the Commons of Great Britain, who to their distinguished honor in all ages asserted the liberties of mankind, that the people of this colony nobly *disdain* the thought of claiming that exemption as a *privilege*. They found it on a basis more honorable, solid, and stable; they *challenge* it and glory in it, as *their right*. That right their ancestors enjoyed in Great Britain and Ireland, their descendants returning to these kingdoms enjoy it again, and that it may be exercised by his Majesty's subjects *at home*, and justly denied to those who submitted to poverty, barbarian wars, loss of blood, loss of money, personal fatigues and ten thousand unutterable hardships, to enlarge the trade, wealth and dominion of the nation; or, to speak with the most incontestable modesty,

While the colonists in their various petitions denied the right of Parliament to tax them without their consent, they expressed their willingness to grant aids to the Crown according to their abilities through their own legislatures, whenever such aids should be required in the usual constitutional mode. As all aids granted to the Crown, agreeably to the British constitution, were the free gifts of the people, the colonists claimed the right of judging as to the amount and manner of these gifts; and were, therefore, unwilling indirectly to acknowledge or countenance the right of Parliament to tax them, by proposing any substitute for the stamp duty, which substitute Parliament might accept or reject at pleasure.

In the winter of 1764-1765 Dr. Benjamin Franklin and other agents of the colonies had a conference with Mr. Grenville on the subject of the stamp duty. They informed the minister of the great opposition to the proposed tax in America, and most earnestly entreated him that, if money must be drawn from the colonies by taxes, to leave it with the colonists to raise it among themselves in such manner as they should think proper and best adapted to their circumstances and abilities.

DEBATE BETWEEN TOWNSHEND AND BARRÉ

When the bill for laying the contemplated duties was brought before the House of Commons, it met with strong opposition. Though Mr. Pitt was absent on this occasion, confined to his bed by sickness, and General Conway and Alderman Beekford were the only persons in the House who opposed the bill on the ground that Parliament had no right to tax the colonies, Col. Isaac Barré, Mr. Jackson, Sir William Meredith, and others were against it on the ground of expediency, alleging generally that it was to the last degree impolitic, as well as unjust, for Great Britain to impose direct taxes upon the colonists while she retained the monopoly of their commerce. Sir George Grenville and Sir Charles Townshend were the principal supporters of the bill.

Mr. Townshend, in the conclusion of a speech in

favor of the measure delivered on February 7, 1765, exclaimed, "And now these Americans, *planted* by our care, *nourished* up by our indulgence, until they are grown to a degree of strength and importance, and *protected* by our arms—will they grudge to contribute their mite to relieve us from the heavy burden we lie under?" To this Col. Barré, in a style and manner peculiar to himself, instantly replied:

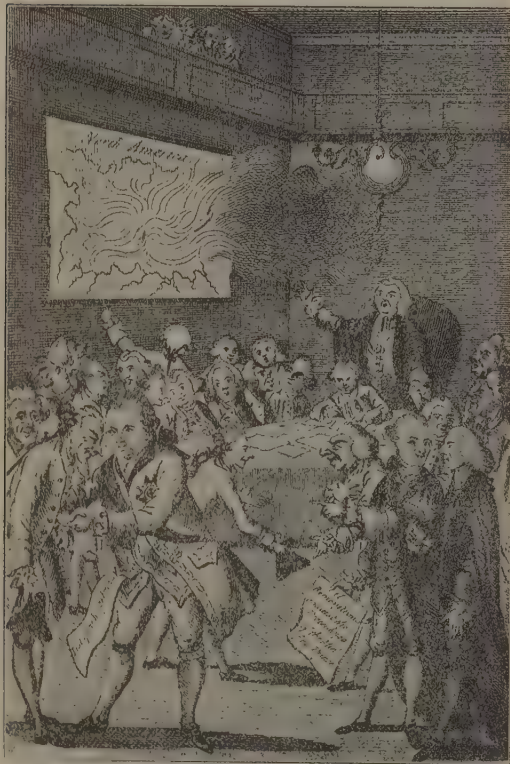
They planted by your care! No; your oppressions planted them in America! They fled from your tyranny to a then uncultivated and inhospitable country, where they exposed themselves to almost all the hardships to which human nature is liable; and, among others, to the cruelties of a savage foe, the most subtle, and I will take upon me to say the most formidable, of any people upon the face of the earth; and yet, actuated by principles of true English liberty, our American brethren met all the hardships with pleasure, compared with those they suffered in their own country from the hands of those that should have been their friends.

They nourished by your indulgence! They grew by your neglect of them. As soon as you began to take care about them; that care was exercised in sending persons to *rule* them in one department and another, who were deputies of deputies to some members of this house, sent to prey upon them; men whose behavior, on many occasions, has caused the blood of those *sons of liberty* to recoil within them; men promoted to the highest seats of justice, some [who], to my knowledge, were glad, by going to a foreign country, to escape being brought to a bar of justice in their own.

They protected by your arms! They have nobly taken up arms in your defence, have exerted their valor, amidst their constant and laborious industry, for the defence of a country whose frontier was drenched in blood, while its interior parts yielded all its little savings to your emolument.

And, believe me, that same spirit of freedom which actuated that people at first will accompany them still. But prudence forbids me to explain myself further.

God knows, I do not at this time speak from party heat. However superior to me in general knowledge and experience the respectable body of this house may be, yet I claim to know more of America than most of you, having seen and been conversant with that country. The people, I believe, are as truly loyal as any subjects the King has; but [they are] a people jealous



THE COUNCIL OF THE BULES AND THE ELDERS AGAINST THE TRIBE OF GREAT AMERICANITES

of their liberties, and who will vindicate them if ever they should be violated—but the subject is too delicate, I will say no more.

REJECTION OF PETITIONS

The House was very forcibly struck with these sentiments, thrown out without premeditation, and for a while sat amazed and without answering a word. But when the petitions from Virginia, Connecticut, and South Carolina were offered in opposition to the bill, the House refused to receive them; in the first place because they questioned or denied the right of Parliament to pass the bill; and in the second place because it was contrary to an old standing rule of the House, "*that no petition should be received against a money bill.*" The majority against receiving the petitions was very large, and those from the other colonies were not offered. The petition from New York was expressed in such strong language that no member of the House could be prevailed upon to present it. The bill passed the House 250 to 50; was adopted in the House of Lords with great unanimity, and on the 22d of March, 1765, received the royal sanction.

The act imposed duties on most of the instruments used in judicial and commercial proceedings, and, indeed, in almost all the ordinary transactions in the colonies; nor were pamphlets, newspapers and almanacs excepted. The literature of the colonists did not escape the notice of the ministers. A duty of two pounds sterling was required for every degree conferred by seminaries of learning. The ministry affected to believe, and indeed declared, that the act embraced so many objects that it would "execute itself." Apprehensive, however, of opposition, the government passed a bill during the same session authorizing the quartering of the troops in the colonies, and directing the assemblies to furnish them with certain articles of provisions not before usually required. During the pendency of this bill it was proposed that the troops might be quartered in private houses. This, however, was too palpable and flagrant a violation of the sacred rights of individuals to be

adopted, and the proposition was finally given up. No act of the parent country ever excited such universal alarm in the colonies as this. The colonists saw and felt that the act was not only a violation of their rights, but a fatal blow aimed at the future peace and prosperity of their country.

AMERICAN OPPOSITION TO THE ACT

The assembly of Virginia was the first public body that met after the news of the Stamp Act reached America. Those who had heretofore taken the lead in the popular branch of that body, the House of Burgesses, seemed unwilling to approach the subject. It was not until near the close of the session, about the first of May, that an action was taken regarding the act.

Then it was that a young lawyer from Hanover County, who had taken into his confidence only one or two of his colleagues, arose and introduced a set of resolutions, the boldness of which struck the timid assembly with consternation, although at the same time it excited their awe and admiration.

The speaker was Patrick Henry, who, though he was reputed the most eloquent speaker in the colony, had hitherto not distinguished himself in the assembly.

RESOLUTIONS OF PATRICK HENRY

The following are the resolutions which Mr. Henry introduced in the House of Burgesses on the Stamp Act:

Whereas the honorable House of Commons in England have of late drawn into question how far the General Assembly of this colony hath power to make laws for laying taxes and imposing duties, payable by the people of this His Majesty's most ancient colony; for settling and ascertaining the same to *all future times*, the House of Burgesses of the present General Assembly have come to the following resolutions.

Resolved, that the first adventurers and settlers of this, His Majesty's colony and dominion, brought with them, and transmitted to their posterity and all other His Majesty's subjects since inhabiting in this His Majesty's said colony, all the privi-

leges, franchises, and immunities that have, at any time, been held, enjoyed, and possessed by the people of Great Britain.

Resolved, that by two royal charters granted by King James I, the colonists aforesaid are declared entitled to all the privileges, liberties, and immunities of denizens and natural born subjects, to all intents and purposes as if they had been abiding and born within the realm of England.

Resolved, that the taxation of the people by themselves, or by persons chosen by themselves to represent them, who can only know what taxes the people are able to bear, and the easiest mode of raising them, and are equally affected by such taxes themselves, is the distinguishing characteristic of British freedom, and without which the ancient constitution cannot subsist.

Resolved, that His Majesty's liege people of this most ancient colony have uninterruptedly enjoyed the right of being thus governed by their own Assembly, in the article of *their taxes and internal police*; and that the same hath never been forfeited, or any other way given up, but hath been recognized by the King and people of Great Britain.

Resolved, therefore, that the General Assembly of this colony have the *sole right and power to lay taxes and impositions* upon the inhabitants of this colony; and that every attempt to vest such power in any person or persons whatever, other than the General Assembly aforesaid, has a manifest tendency to destroy British as well as American freedom.

The above resolutions were found among the papers of Patrick Henry, after his death, sealed up, and with the following indorsement, "Inclosed are the resolutions of the Virginia assembly, concerning the Stamp Act. Let my executors open this paper."¹

Chief Justice John Marshall, in his "Life of Washington," gives the resolutions which received the sanction of the Assembly with the third resolution omitted, and with slight differences in the phraseology of the others.

Judge Marshall adds, "Such were the resolutions as agreed to by that part of the Assembly which was most timid. The following resolutions were also introduced by Mr. Henry, and passed the committee, but were disagreed to in the House:

"Resolved, that His Majesty's liege people, the inhabitants

¹ Life of Patrick Henry, by William Wirt, p. 50.

To prevent the success of this unjust system, an union of counsel and action among all the colonies is undoubtedly necessary. The politician of Italy delivered the result of reason and experience when he proposed the way to *conquest*, by *division*. How to effect this union, in the wisest and firmest manner, perhaps, time and much reflection only can show. But well to understand each other, and timely to be informed of what passes both here and in Great Britain, it would seem that not only select committees should be appointed by all the colonies, but that a private correspondence should be conducted between the lovers of liberty in every province.

Peyton Randolph was one of those who opposed Henry's resolutions as precipitate. Indeed, he was greatly alarmed at their probable effect in angering Parliament. As they were leaving the hall, Jefferson heard him say, referring to the closeness of the vote by which the resolutions were carried, "By God, I would have given five hundred guineas for a single vote!"

The proceedings of Virginia were immediately circulated through the colonies, and roused them to action. The various assemblies, at the suggestion of Massachusetts, determined upon a Stamp Act congress of the colonies, to be held at New York on the first Tuesday of October, 1765.

THE STAMP ACT CONGRESS

This was the first general meeting of the colonies for the purpose of considering their rights and privileges, and obtaining a redress for the violation of them on the part of the parent country.

The commissioners were generally instructed to prepare suitable petitions and representations to the King and Parliament on the subject of the late acts regarding the colonies, and to pray for relief.

After having duly organized, and resolved that the commissioners of each colony should have "one voice" only in determining questions that should arise, this congress, on the 8th of October, took into consideration "the rights and privileges of the colonists, with the several inconveniences and hardships to which they were

of this colony, are not bound to yield obedience to any law or ordinance whatsoever, designed to impose any taxation whatsoever upon them, other than the laws and ordinances of the General Assembly aforesaid.

"Resolved, that any person who shall, by speaking or writing, maintain that any person or persons, other than the General Assembly of this colony, have any right or power to lay any taxation whatsoever on the people here, shall be deemed an enemy to this His Majesty's colony."

DEBATE ON THE RESOLUTIONS

Some of the resolutions offered by Mr. Henry occasioned a most violent and, as has been said by one who was present, a "most bloody" debate in that house. They were seconded by George Johnson, who was an able constitutional lawyer, and opposed by those who had before taken the lead, because not sufficiently conciliatory. The bold and powerful eloquence of the mover, however, prevailed over all opposition, though the most objectionable were carried by a single vote only. Mr. Henry did not hesitate to declare that the act imposing internal duties on the colonists was tyrannical, and that the king in assenting to it had acted the part of a tyrant; and when, in the heat of debate, alluding to the fate of other tyrants, he exclaimed, "Cæsar had his Brutus, Charles I his Cromwell, and George III"—he was interrupted by the speaker and others, with the cry of "Treason!" Mr. Henry, pausing for a moment, and fixing his eye on the speaker, deliberately concluded—"may profit by their example; if this be treason, make the most of it."

Henry was strongly supported in this debate by Richard Henry Lee. Says a historian of the time, "People knew not which most to admire: the overwhelming might of Henry, or the resistless persuasion of Lee." Mr. Lee also wrote many powerful articles upon the Stamp Act to the newspapers, as well as letters to patriots in the other colonies counseling a union of interests. In a letter to John Dickinson, dated July 25, 1768, on Parliament's declaration of its supremacy over the colonies, he wrote:

and must be subjected by the Stamp Act and other late acts of Parliament." This important subject was under consideration until the 19th of October, when a declaration of the *rights and grievances* of the colonists was agreed to.

In this declaration, consisting of fourteen articles, after acknowledging their allegiance to the King, and "*all due subordination*" to Parliament, they, among other things, assert and declare that the colonists are entitled to all the *inherent rights and liberties* of His Majesty's natural born subjects in the kingdom of Great Britain; and that it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no taxes be imposed on them but with their own consent, given personally or by their representatives—that the colonists *are not* and, from their local circumstances, *cannot* be represented in the House of Commons in Great Britain—that the only representatives of the people of these colonies are persons chosen *therein* by themselves, and that no taxes *ever* have been or can be constitutionally imposed on them but by their respective legislatures—that, all supplies to the Crown being the free gifts of the people, it is unreasonable and inconsistent with the principles and spirit of the British constitution for the people of Great Britain to grant to His Majesty the property of the colonists—that trial by jury is the inherent and invaluable right of every British subject in the colonies, and that the Stamp Act, and other acts extending the jurisdiction of the Admiralty Court beyond its ancient limits, "have a manifest tendency to subvert the rights and liberties of the colonists."

They also declared that the restrictions imposed by several late acts of Parliament on the *trade* of the colonies were burdensome, and would render them unable to purchase the manufactures of Great Britain; and that it was the indispensable duty of the colonies to the best of sovereigns, to the mother country, and to themselves, to endeavor by a loyal and dutiful address to the King and humble application to Parliament to procure a repeal of the act imposing stamp duties, of all parts of such acts as extend the admiralty jurisdiction, and of the other late acts for the restriction of American commerce.

This declaration was drafted by John Cruger, Mayor of New York, who was one of the delegates.

This congress then prepared an address to the King, and a petition to each house of Parliament, drawn by

committees appointed for that purpose. The committee to draw an address to the King were Robert R. Livingston, William S. Johnson, and William Murdock; to draw the petition to the House of Lords were John Rutledge, Edward Tilghman, and Philip Livingston; and to draw the petition to the House of Commons were Thomas Lynch, James Otis, and Thomas McKean.

These state papers evince the talents as well as firmness, tempered with wisdom and moderation, of this first American congress; composed as it was of some of the most distinguished statesmen from the several colonies therein represented.

ADDRESS TO THE KING

In their address to the King, drawn up principally by Mr. Johnson from Connecticut, one of the ablest lawyers and most accomplished scholars in America, the congress remind him that:

Animated with the spirit of liberty, encouraged by his predecessors, and confiding in the public faith, their ancestors, for the enjoyment of all the rights essential to freedom, emigrated to the American continent; and in the midst of innumerable dangers and difficulties, and at a great expense of their blood and treasure, added "these vast and valuable dominions to the empire of Great Britain." That, for the enjoyment of their rights and privileges, governments were early formed in the colonies with full powers of legislation, agreeably to the principles of the English constitution; and that, under these governments, the liberties, thus vested in their ancestors, and transmitted to their posterity, have been exercised and enjoyed, and by the inestimable blessings thereof, under the favor of Almighty God, the inhospitable deserts of America have been converted into flourishing countries. Science, humanity, and the knowledge of divine truths have been diffused through remote regions of ignorance, infidelity, and barbarism; the number of British subjects wonderfully increased; and the wealth and power of Great Britain proportionally augmented. That, by means of these settlements, and the unparalleled success of His Majesty's arms, a foundation was now laid for rendering the British empire the most extensive and powerful of any recorded in history.

"Our connection," they add, "with this empire we esteem our greatest happiness and security, and humbly conceive it may

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"We shall not attempt," they say, "a minute detail of all the reasons which the wisdom of the honorable house may suggest on this occasion, but would humbly submit the following particulars to their consideration:

"That money is already become very scarce in these colonies, and is still decreasing by the necessary exportation of specie from the continent for the discharge of our debts to British merchants.



THE DEPLORABLE STATE OF AMERICA, OR SCOTCH—H GOVERNMENT

Referring to the secret influence of the Scotch Lord Bute over the British Ministry

From the collection of the New York Historical Society.

"That an immensely heavy debt is yet due from the colonies for British manufactures, and that they are still burdened with taxes to discharge the arrearages due for aids granted by them in the late war.

"That the balance of trade will ever be much against the colonies, and in favor of Great Britain, while we consume her manufactures, the demand for which must ever increase in proportion to the number of inhabitants settled here with the means of purchasing them. We therefore humbly conceive it to be the interest of Great Britain to increase, rather than diminish, these means, as the profits of all the trade of the colonies ultimately center there to pay for her manufactures, as we are not allowed to purchase elsewhere; and by the consumption of which, at the advanced prices the British taxes oblige the makers and vendors to put on them, we eventually contribute very largely to the revenues of the crown.

"That from the nature of American business, the multi-

now be so established by your royal wisdom as to endure to the latest period of time. This, with most humble submission to Your Majesty, we apprehend will be most effectually accomplished by fixing the pillars thereof on *liberty and justice*, and securing the inherent rights and liberties of your subjects here, upon the principles of the English constitution." To this constitution, they say, "these two principles are essential, the right of your faithful subjects freely to grant to Your Majesty such aids as are required for the support of your government over them and other public exigencies, and trial by their peers. By the one they are secured from unreasonable impositions, and by the other from arbitrary decisions of executive power. The continuance of these blessings to the inhabitants of America we ardently implore as absolutely necessary to unite the several parts of your widely extended dominions in that harmony so essential for the preservation of the whole."

PETITION TO PARLIAMENT

In their petition to the House of Commons they claim the same rights as in their address to the King; and they complain not only of the act imposing the stamp duties, but of several other acts imposing duties in the colonies, and laying their trade under burdensome restrictions.

They stated "that the remote situation and other circumstances of the colonies render it impracticable that they should be represented but in their respective subordinate legislatures"; and they "humbly conceived that the Parliament, adhering strictly to the principles of the constitution, have never hitherto taxed any but those who were actually therein represented; for this reason, we humbly apprehend they never have taxed Ireland, or any other of the subjects without the realm.

"But were it ever so clear," they add, "that the colonies might in law be represented in the honorable House of Commons, yet we conceive that very good reasons, from inconvenience, from the principles of true policy, and from the spirit of the British constitution, may be adduced to show that it would be for the real interest of Great Britain, as well as her colonies, that the late regulations should be rescinded, and the several acts of Parliament imposing duties and taxes on the colonies, and extending the jurisdiction of the courts of admiralty here beyond their ancient limits, should be repealed.

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plicity of suits and papers used in matters of small value, in a country where freeholds are so minutely divided, and property so frequently transferred, a stamp duty must ever be very burdensome and unequal.

"That it is extremely improbable that the honorable House of Commons should, at any time, be thoroughly acquainted with our condition, and all facts requisite to a just and equal taxation of the colonies.

"It is also humbly submitted, whether there be not a material distinction in reason and sound policy, at least, between the necessary exercise of parliamentary jurisdiction in general acts, for the amendment of the common law, and the regulation of trade and commerce through the whole empire, and the exercise of that jurisdiction, by imposing taxes on the colonies."

With the exception of the foregoing petitions, address and general declaration of rights, little is known or has been collected with respect to the proceedings of this first American congress. But James Otis of Massachusetts is remembered to have been particularly distinguished for his eloquence and thorough knowledge of American rights. In the margin of Ramsay's "History of the American Revolution," Mr. Rodney, one of the commissioners from Delaware, made the following entry, "The historian passes by this congress in a very light manner. It was this congress in which James Otis, of Boston, displayed that light and knowledge of the interest of America, which, shining like a sun, lit up those stars which shone on this subject afterward."

This congress adjourned on the 25th of October, and their proceedings were approved by all the members except Mr. Ruggles of Massachusetts, and Mr. Ogden of New Jersey, both of whom left New York without signing the address and petitions. The commissioners from South Carolina and Connecticut were limited by their instructions to make report to their respective legislatures, and the committee of New York, who had been admitted as members, had authority to apply to the King or Parliament. The address and petitions were, therefore, signed by the commissioners from only six of the colonies. The proceedings of the congress, however, were afterward sanctioned and approved by the assem-

blies not only of South Carolina, Connecticut and New York, but of the colonies not therein represented.

PROTESTS OF COLONIAL LEGISLATURES

The subject of the stamp duties was not left with the congress alone; it was taken up by the colonial legislatures, either before or subsequent to the meeting of that body.

The Legislature of Connecticut, in their instructions to their agent at London, after declaring the act laying internal duties to be "an infringement of the essential liberties of the colonists," proceed to say, "we can by no means be content that you should give up the matter of *right*, but must beg you would on all proper occasions claim and firmly insist on the *exclusive right* of the colonies to tax themselves, and the privilege of trial by jury; and to maintain these principles in the most effectual manner possible as what we can *never recede from*."

Opposition to the stamp duties was not confined to legislative resolutions and declarations. Numerous individuals in every part of the country held meetings, and in bold and decided language expressed, not only their detestation of the act, but their unalterable determination that the same should never be carried into effect.

ADDRESS OF PLYMOUTH, MASS.

The instructions given to their representative in the assembly by the inhabitants of the town of Plymouth, the immediate descendants of the Pilgrims who first planted New England, will be read with peculiar interest.

After expressing their esteem for the British constitution, and stating their grievances, they say to their representative, Mr. Foster, "You, sir, represent a people who are not only descended from the first settlers of this country, but inhabit the very spot they first possessed. Here was first laid the foundation of the British empire in this part of America, which, from a very small beginning, has increased and spread in a manner very surprising, and almost incredible; especially when we consider that all this has been effected without the aid and assist-

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BOYCOTT OF THE STAMPS

Many of the resolutions adopted at these meetings of the citizens were of an inflammatory character.

The following declaration of the freemen of the County of Essex, in New Jersey, and of Talbot County, in Maryland, will serve, among thousands of others of a similar cast, to show the spirit then universally prevailing in America against stamps and stamp officers.

After declaring the act itself unconstitutional, they add, "that they will detest, abhor, and hold in contempt all and every person or persons who shall merely accept of any employment or office relating to the said Stamp Act, or shall take any shelter or advantage of the same, and all and every stamp-pimp, informer, and encourager of the execution of said act; and that they will have no communication with any such persons, unless it be to inform them of their villainy."

The merchants of New York, on the 31st of October, nobly sacrificed their interest on this occasion by entering into an agreement or association to have no goods shipped from Great Britain, unless the Stamp Act should be repealed.

The merchants of Philadelphia and Boston soon after joined those of New York in similar associations.

Another association of a different and, indeed, of a novel character was in December entered into by some of the citizens of New York and Connecticut, who were called the "Sons of Liberty," the object of which association was in reality to prevent, by force if necessary, the execution of the act, under the pretence of maintaining unimpaired the principles of the British constitution, of which they declared the act to be a violation. In this association the act is thus noticed:

And whereas, a certain pamphlet has appeared in America in the form of an act of Parliament called and known by the name of the *Stamp Act*, but has never been *legally* published or introduced, neither can it, as it would immediately deprive them of the most invaluable part of the British constitution, viz. the trial by juries, and the most just mode of taxation in the world, that is of *taxing themselves*; rights that every British

ance of any power on earth; that we have *defended, protected, and saved* ourselves against the incursions and cruelty of savages, and the subtlety and inhumanity of our inveterate and natural enemies the French; and all this without the appropriation of any tax by stamps, or stamp act laid upon our fellow subjects, in any part of the King's dominions, for defraying the expenses thereof.

"This place, sir, was at first the asylum of liberty, and, we hope, will ever be preserved sacred to it; though it was then no more than a forlorn wilderness, inhabited by savage men and beasts. To this place our fathers (whose memory be revered), possessed of the principles of liberty in their purity, disdaining slavery, fled to enjoy those privileges which they had an undoubted right to, but were deprived of by the hands of violence and oppression in their native country. We, sir, their posterity, the freeholders and other inhabitants of this town, legally assembled for that purpose, possessed of the same sentiments, and retaining the same ardor for liberty, think it our indispensable duty on this occasion to express to you these our sentiments of the Stamp Act and its fatal consequences to this country, and to enjoin upon you, as you regard not only the welfare, but the very being of this people, that you (consistent with our allegiance to the King and relation to the government of Great Britain), disregarding all proposals for that purpose, exert all your power and influence in relation to the Stamp Act, at least, until we hear the success of our petitions for relief. We likewise, to avoid disgracing our ancestors, as well as the reproaches of our own consciences, and the curses of posterity, recommend it to you to obtain, if possible, in the honorable House of Representatives of the people a full and explicit assertion of our rights, and to have the same entered on their public records that all generations yet to come may be convinced that we have not only a just sense of our liberties, but that we never (with submission to divine Providence) will be slaves to any power on earth; and, as we have at all times an abhorrence of tumults and disorders, we think ourselves happy in being at present under no apprehensions of any, and in having good and wholesome laws, sufficient to preserve the peace of the province in all future times, unless provoked by some imprudent measures; so we think it by no means advisable for you to interest yourself in the protection of stamp papers or stamp officers."

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subject becomes heir to as soon as born. For the preservation of which and every part of the British constitution, they do reciprocally resolve and determine to march with the utmost dispatch, at their own proper cost and expense, on the first proper notice (which must be signified to them by at least six of the Sons of Liberty) *with their whole force*, if required and it can be spared, to the relief of those that shall, are, or may be in danger from the Stamp Act, or its aiders or abettors, or anything relative to it, on account of anything that may have been done in opposition to its obtaining; and they do mutually and most fervently recommend it to each other to be vigilant in watching all those who, from the nature of their offices, vocations, or dispositions, may be the most likely to introduce the use of stamped paper, to the total subversion of the British constitution and American liberty; and the same, when discovered, immediately to advise each other of, let them be of what rank or condition soever; and they also do agree that they will mutually, and to the utmost of their power, by all just ways and means, endeavor to bring all such betrayers of their country to the most condign punishment; and further they do mutually resolve to defend the liberty of the press in their respective colonies from all unlawful violations and impediments whatever on account of said act, as the only means (under divine Providence) of preserving their lives, liberties and fortunes, and the same, in regard to the judges, clerks, attorneys, etc., that shall proceed without any regard to the Stamp Act, from all pains, fines, mulcts, penalties, or any other molestation whatever; and, finally, that they will, to the utmost of their power, endeavor to bring about, accomplish, and perfect the like association with all the colonies on the continent, for the like salutary purposes and no other.

This singular association was afterward extended to some of the other colonies, and but for a repeal of the act would, no doubt, have been generally adopted.

These various associations and resolutions were encouraged and supported, and the spirit of the people kept alive, by the numerous publications in the newspapers in America, most of which were enlisted in favor of the colonists in this controversy.

The pens of American patriots in favor of liberty and in opposition to the claim of Parliament during the year 1765 were not confined to newspaper publications.

An "Essay on the Canon and Feudal Law," by John Adams; "Considerations on the Propriety of Imposing Taxes on the British Colonies, for the Purpose of Raising a Revenue by Act of Parliament," by Daniel Dulany of Maryland, and "An Enquiry into the Rights of the British Colonies," by Theodorick Bland of Virginia, are most notable.

"OUR BLOOD-BOUGHT LIBERTY"

JOHN ADAMS

"Be it remembered," says Mr. Adams, "that liberty must, at all hazards, be supported! We have a right to it, derived from our Maker! but, if we had not, our fathers have earned it and bought it for us, at the expense of their ease, their estates, their pleasure, and their blood. Is there not something extremely fallacious," he adds, "in the commonplace images of mother country and children colonies? Are we children of Great Britain, any more than the cities of London, Exeter, and Bath? Are we not brethren and fellow subjects with those in Britain, only under a somewhat different method of legislation, and a totally different method of taxation? But, admitting we are children, have not children a right to complain when their parents are attempting to break their limbs, to administer poison, or to sell them to enemies for slaves?"

"Let the pulpit," he concludes, "resound with the doctrines and sentiments of religious liberty. Let us hear the danger of thralldom to our consciences from ignorance, extreme poverty, and dependence, in short from civil and political slavery. Let us see delineated before us the true map of man. Let us hear the dignity of his nature, and the noble rank he holds among the works of God! that consenting to slavery is a sacrilegious breach of trust, is offensive in the sight of God as it is derogatory from our honor, our interest, or happiness; and that God Almighty has promulgated from heaven liberty, peace, and good will to man.

"Let the bar proclaim, 'the laws, the rights, the generous plan of power' delivered down from remote antiquity; inform the world of the mighty struggles and numberless sacrifices, made by our ancestors, in the defense of freedom. Let it be known that British liberties are not the grants of princes or parliaments, but original rights, conditions of original contracts, coequal with prerogative and coeval with government. That

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former not only proved the illegality of the Stamp Act, and the evils the Americans must experience from the new parliamentary regulations of the colonial trade, whereby they were rendered unable to pay for the large balances always due for English manufactures; but pointed out a remedy for these evils in future. The remedy suggested was domestic industry, which, he said, would render the American colonists less dependent on the mother country for articles either of necessity or luxury.

"Let the manufacture of America," says this enlightened statesman, "be the symbol of dignity, the badge of virtue, and it will soon break the fetters of distress. A garment of linsey-woolsey, when made the distinction of patriotism, is more honorable, and attractive of respect and veneration, than all the pageantry, and the robes, and the plumes, and the diadem of an emperor without it. Let the emulation be, not in the richness and variety of foreign productions, but in the improvement and perfection of our own—let it be demonstrated that the subjects of the British empire in *Europe and America* are the same, that the hardships of the latter will ever recoil on the former.

"In theory it is supposed that each is equally important to the other, that all partake of the adversity and depression of any. The theory is just, and time will certainly establish it; but if another principle should be hereafter adopted in practice, and a violation deliberate, cruel, ungrateful, and attended with every circumstance of provocation be offered to our fundamental rights, why should we leave it to the slow advances of time (which may be the great hope and reliance, probably, of the authors of the injury, whose view it may be to accomplish their selfish purposes in the interval) to prove what might be demonstrated immediately? Instead of moping, and puling, and whining, to excite compassion; in such a situation, we ought with spirit, and vigor, and alacrity to bid defiance to tyranny by exposing its impotence, by making it as contemptible as it would be detestable. By a vigorous application to manufactures, the consequence of oppression in the colonies to the inhabitants of Great Britain would strike home, and immediately. None could mistake it. Craft and subtlety would not be able to impose on the most ignorant and credulous; for, if any should be so weak of sight as not to see, they would not be so callous as not to feel it. Such conduct would be the most dutiful and beneficial to the mother country. It would point out the distemper when the

many of our rights are inherent and essential, agreed on as maxims, and established as preliminaries, even before a parliament existed: Let them search for the foundation of British laws and government in the frame of human nature, in the constitution of the intellectual and moral world. There let us see that truth, liberty, justice, and benevolence are its everlasting basis; and that, if these could be removed, the superstructure is overthrown of course."

After stating that the "encroachments upon liberty, in the reigns of James I and Charles I, first turned the attention of learned men to government, and produced the greatest number of statesmen ever seen in any age or nation," Mr. Adams says, "the prospect now before us in America ought in the same manner to engage the attention of every man of learning to matters of power and right, that we may be neither led nor driven blindfolded to irretrievable destruction. Nothing less than this seems to have been meditated for us by somebody or other in Great Britain. There seems to be a direct and formal design on foot to enslave all America. This, however, must be done by degrees. The first step that is intended seems to be an entire subversion of the whole system of our fathers by the introduction of the canon and feudal law into America. The canon and feudal systems, though greatly mutilated in England, are not yet destroyed. Like the temples and palaces in which the great contrivers of them were once worshiped and inhabited, they exist in ruins; and much of the domineering spirit of them still remains. The designs and labor of a certain society to introduce the former of them into America have been well exposed to the public by a writer of great abilities; and the further attempts to the same purpose, that may be made by that society, or by the ministry or Parliament, I leave to the conjecture of the thoughtful. But it seems very manifest from the Stamp Act itself that a design is formed to strip us, in a great measure, of the means of knowledge, by loading the press, the colleges, and even an almanac and a newspaper, with restraints and duties; and to introduce the inequalities and dependencies of the feudal system by taking from the poorer sort of people all their little subsistence, and conferring it on a set of stamp officers, distributors and their deputies."

DULANY ON THE ACT

Mr. Dulany and Mr. Bland were among the most distinguished lawyers and statesmen in America. The

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remedy might be easy, and a cure at once effected by a simple alteration of regimen."¹

Bland's book, published in 1766, was the first written on colonial rights. He was regarded as an authority on the subject, his knowledge of Virginia matters in particular gaining him the title of the "Virginia Antiquary."

A statement of the public sentiment and feeling in America, in relation to the Stamp Act, was, in a variety of ways, communicated to the ministry and people of Great Britain. A person high in office, in New York, in November of this year, writes to a nobleman in England, "Depend upon it, they will suffer no man to execute any law to raise *internal taxes*, unimposed by their own assemblies. None of the distributors durst act; and that man's heart must be fortified with tenfold steel who ventures to approve the doctrine that the Parliament hath a right to give away the estates of the colonists without their consent."²

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The indignation of the people against the act, unfortunately, was not confined to resolutions and agreements; but in some of the colonies broke out into acts of violence and unjustifiable outrage against the persons and property of its supporters. These outrages were carried to the greatest length in Boston. The house of Chief-Justice Thomas Hutchinson was attacked in a riotous manner, his furniture and pictures destroyed, and his valuable library and manuscripts, in a wanton manner, either burnt or thrown into the street. Mr. Hutchinson was very obnoxious to the people of Massachusetts not only for favoring the execution of the Stamp Act, but because he was instrumental in enforcing the acts of trade. The houses of several revenue officers, among them that of Mr. Oliver, the distributor of stamps, were also injured. These riotous acts were, however,

¹ Nevertheless Dulany became a loyalist when the Revolution that he had prophesied might result from the Stamp Act finally came to pass.

² Adolphus's History of England; appendix 5.

disapproved by the great mass of the people of Boston, and of the province generally.

Such was the general determination of the people against the execution of the act that the distributors of the stamp paper who did not voluntarily resign were compelled so to do, either by threats or force. On the 1st of November, the day the act was to take effect, neither stamps nor stamp officers were to be found in the colonies. The courts of justice were for a time closed, vessels did not depart from American ports, and business of various kinds was interrupted. This state of things, however, remained for a short period only; business by general consent soon resumed its usual course without the aid of stamp paper.

CHAPTER II

THE SUPREMACY OF PARLIAMENT

[DEBATES IN PARLIAMENT]

Debate on the Right to Tax America between George Grenville and William Pitt. I.—Debate on the Resolution Declaring the Supremacy of Parliament: in favor, Gen. Henry Seymour Conway and the Marquis of Rockingham; opposed, Col. Isaac Barré and William Pitt—Examination of Dr. Benjamin Franklin—Debate on the Repeal of the Stamp Act: in favor, Gen. Conway, Mr. Pitt, and Col. Barré; opposed, Mr. Grenville—Debate in the House of Lords between Lords Camden and Mansfield on the Supremacy of Parliament—Stamp Act Repealed and Supremacy of Parliament Asserted.

WHILE this measure of the British Government was thus agitating the colonies a change took place in the British ministry. The immediate authors of the measure itself were removed from the councils of the King, and others, supposed more favorable to the American interest, came into office.

On the 14th of January, 1766, the American papers relating to the origin, progress, and tendency of the disturbances in the colonies were laid before the House of Commons. These papers the House determined to take into consideration on the 28th of the same month.

Upon the day of the submission of the American papers occurred the great debate between George Grenville and William Pitt on the right of Parliament to tax America.

Pitt's speeches were extemporaneous, and, since verbatim reporting was not practiced in his time, are not preserved in the exact form in which they were delivered. Of all his speeches, that on the Stamp Act, reported by Sir Robert Dean and Lord Charlemont, is said to be closest in verbiage to the actual oration, with

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perhaps the exception of his Address to the Throne concerning Affairs in America, reported by Hugh Boyd and corrected by Pitt.

THE RIGHT TO TAX AMERICA

PITT VS. GRENVILLE

Mr. PITT arose from his place in the House and said:

It is a long time, Mr. Speaker, since I have attended in Parliament. When the resolution was taken in this House to tax America I was ill in bed. If I could have endured to be carried in my bed—so great was the agitation of my mind for the consequences—I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it! It is now an act that has passed. I would speak with decency of every act of this House; but I must beg the indulgence of the House to speak of it with freedom.

I hope a day may soon be appointed to consider the state of the nation with respect to America. I hope gentlemen will come to this debate with all the temper and impartiality that his Majesty recommends, and the importance of the subject requires; a subject of greater importance than ever engaged the attention of this House, that subject only excepted when, near a century ago, it was the question whether you yourselves were to be bond or free. In the meantime, as I cannot depend upon my health for any future day (such is the nature of my infirmities), I will beg to say a few words at present, leaving the justice, the equity, the policy, the expediency of the act to another time.

I will only speak to one point—a point which seems not to have been generally understood—I mean to the *right*. Some gentlemen [alluding to Mr. Nugent] seem to have considered it as a point of honor. If gentlemen consider it in that light, they leave all measures of right and wrong, to follow a delusion that may lead to destruction. It is my opinion that this kingdom has no right to lay a tax upon the colonies. At the same time, I assert the authority of this kingdom over the colonies to be sovereign and supreme, in every circumstance of government and legislation whatsoever. They are the subjects of this kingdom; equally entitled with yourselves to all the natural rights of mankind and the peculiar privileges of Englishmen; equally bound by its laws, and equally participating in the constitution

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of this free country. The Americans are the sons, not the bastards of England! Taxation is no part of the governing or legislative power. The taxes are a voluntary *gift* and *grant* of the Commons alone. In legislation the three estates of the realm are alike concerned; but the concurrence of the peers and the Crown to a tax is only necessary to clothe it with the form of a law. The gift and grant is of the Commons alone. In ancient days the Crown, the barons, and the clergy possessed the lands. In those days the barons and the clergy gave and granted to the Crown. They gave and granted what was their own! At present, since the discovery of America, and other circumstances permitting, the commons are become the proprietors of the land. The Church (God bless it!) has but a pittance. The property of the lords, compared with that of the commons, is as a drop of water in the ocean; and this House represents those commons, the proprietors of the lands; and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this House, we give and grant, we give and grant what is our own. But in an American tax what do we do? "We, your Majesty's commons for Great Britain, give and grant to your Majesty"—what? Our own property! No! "We give and grant to your Majesty" the property of your Majesty's commons of America! It is an absurdity in terms.

The distinction between legislation and taxation is essentially necessary to liberty. The Crown and the peers are equally legislative powers with the Commons. If taxation be a part of simple legislation the Crown and the peers have rights in taxation as well as yourselves; rights which they will claim, which they will exercise, whenever the principle can be supported by power.

There is an idea in some that the colonies are *virtually* represented in the House. I would fain know by whom an American is represented here. Is he represented by any knight of the shire in any county in this kingdom? Would to God that respectable representation was augmented to a greater number! Or will you tell him that he is represented by any representative of a borough? a borough which, perhaps, its own representatives never saw! This is what is called the rotten part of the constitution. It cannot continue a century.¹ If it does not drop it must be amputated. The idea of a virtual representation of America in this House is the most contemptible idea that ever entered into the head of a man. It does not deserve a serious refutation.

¹ The "rotten boroughs" in England were abolished in 1832.

The commons of America, represented in their several assemblies, have ever been in possession of the exercise of this, their constitutional right, of giving and granting their own money. They would have been slaves if they had not enjoyed it! At the same time, this kingdom, as the supreme governing and legislative power, has always bound the colonies by her laws, by her regulations, and restrictions in trade, in navigation, in manufactures, in everything, except that of taking their money out of their pockets without their consent.

Here I would draw the line:

*Quam ultra citraque neque consistere rectum.*¹

At the conclusion of Mr. Pitt's remarks, Mr. Grenville arose in behalf of the government. He began by severely censuring the ministry for not giving Parliament earlier notice of the disturbances in America. "They began," said he, "in July, and now we are in the middle of January; lately they were only occurrences; they are now grown to disturbances, to tumults and riots. I doubt they border on open rebellion; and, if the doctrine I have heard this day be confirmed, I fear they will lose that name to take that of revolution. The government over them being dissolved, a revolution will take place in America."

Then, applying himself to the issue of the debate, namely, the distinction between internal and external taxation, Mr. Grenville continued:

I cannot understand the difference between external and internal taxes. They are the same in effect, and differ only in name. That this kingdom has the sovereign, the supreme legislative power over America is granted; it cannot be denied; and taxation is a part of that sovereign power. It is one branch of the legislation. It is, it has been, exercised over those who are not, who were never, represented. It is exercised over the India Company, the merchants of London, the proprietors of the stocks, and over many great manufacturing towns. It was exercised over the county palatine of Chester, and the bishopric of Durham, before they sent any representatives to Parliament. I appeal for proof to the preambles of the acts which gave them representatives; one in the reign of Henry VIII, the other in that of Charles II. [Mr. Grenville then quoted the acts, and

"Right lies wholly neither with one side nor the other."

so clamorous for Mr. Pitt! Mr. Pitt! that the speaker was obliged to call to order. Mr. Pitt said:

I do not apprehend I am speaking twice. I did expressly reserve a part of my subject, in order to save the time of this House; but I am compelled to proceed in it. I do not speak twice; I only finish what I designedly left imperfect. But if the House is of a different opinion, far be it from me to indulge a wish of transgression against order. I am content, if it be your pleasure, to be silent.

Here he paused. The House resounding with *Go on! go on!* he proceeded:

Gentlemen, sir, have been charged with giving birth to *sedition* in America. They have spoken their sentiments with freedom against this unhappy act, and that freedom has become their crime. Sorry I am to hear the liberty of speech in this House imputed as a crime. But the imputation shall not discourage me. It is a liberty I mean to exercise. No gentleman ought to be afraid to exercise it. It is a liberty by which the gentleman who calumniates it might have profited. He ought to have desisted from his project. The gentleman tells us America is obstinate; America is almost in open rebellion. I rejoice that America has resisted. Three millions of people, so dead to all the feelings of liberty as voluntarily to submit to be slaves, would have been fit instruments to make slaves of the rest. I come not here armed at all points, with law cases and acts of Parliament, with the statute book doubled down in dog's ears, to defend the cause of liberty. If I had, I myself would have cited the two cases of Chester and Durham. I would have cited them to show that, even under former arbitrary reigns, Parliaments were ashamed of taxing a people without their consent, and allowed them representatives. Why did the gentleman confine himself to Chester and Durham? He might have taken a higher example in Wales—Wales, that never was taxed by Parliament till it was incorporated.¹ I would not debate a particular point of law with the gentleman. I know his abilities. I have been obliged to his diligent researches. But, for the defence of liberty, upon a general principle, upon a constitutional principle, it is a ground on which I stand firm—on which I dare meet any man.

¹ The right of representation in Parliament was given to Wales, as well as to the adjoining counties of Chester and Monmouth, in the reign of Henry VIII, and to the county of Durham in 1673. Before this representation was accorded these districts were free from direct national taxation.

desired that they might be read; which being done, he said:] When I proposed to tax America I asked the House if any gentleman would object to the right; I repeatedly asked it, and no man would attempt to deny it. Protection and obedience are reciprocal. Great Britain protects America; America is bound to yield obedience. If not, tell me when the Americans were emancipated? When they want the protection of this kingdom they are always very ready to ask it. That protection has always been afforded them in the most full and ample manner. The nation has run herself into an immense debt to give them their protection; and now, when they are called upon to contribute a small share toward the public expense—an expense arising from themselves—they renounce your authority, insult your officers, and break out, I might almost say, into open rebellion. The seditious spirit of the colonies owes its birth to the factions in this House. Gentlemen are careless of the consequences of what they say, provided it answers the purposes of opposition. We were told we trod on tender ground. We were bid to expect disobedience. What is this but telling the Americans to stand out against the law, to encourage their obstinacy with the expectation of support from hence? "Let us only hold out a little," they would say, "our friends will soon be in power." Ungrateful people of America! Bounties have been extended to them. When I had the honor of serving the Crown, while you yourselves were loaded with an enormous debt, you gave bounties on their lumber, on their iron, their hemp, and many other articles. You have relaxed in their favor the Act of Navigation, that palladium of the British commerce; and yet I have been abused in all the public papers as an enemy to the trade of America. I have been particularly charged with giving orders and instructions to prevent the Spanish trade, and thereby stopping the channel by which alone North America used to be supplied with cash for remittances to this country. I defy any man to produce any such orders or instructions. I discouraged no trade but what was illicit, what was prohibited by an act of Parliament. I desire a West India merchant [Mr. Long], well known in the city, a gentleman of character, may be examined. He will tell you that I offered to do every thing in my power to advance the trade of America. I was above giving an answer to anonymous calumnies; but in this place it becomes one to wipe off the aspersion.

Here Mr. Grenville ceased. Several members got up to speak, but Mr. Pitt seeming to rise, the House was

The gentleman tells us of many who are taxed, and are not represented—the India company, merchants, stockholders, manufacturers. Surely many of these are represented in other capacities, as owners of land, or as freemen of boroughs. It is a misfortune that more are not equally represented. But they are all inhabitants, and as such, are they not virtually represented? Many have it in their option to be actually represented. They have connections with those that elect, and they have influence over them. The gentleman mentioned the stockholders. I hope he does not reckon the debts of the nation as a part of the national estate.

Since the accession of King William, many ministers, some of great, others of more moderate abilities, have taken the lead of government. [Here Mr. Pitt went through the list of them, bringing it down till he came to himself, giving a short sketch of the characters of each, and then proceeded:] None of these thought, or even dreamed, of robbing the colonies of their constitutional rights. That was reserved to mark the era of the late administration. Not that there were wanting some, when I had the honor to serve His Majesty, to propose to me to burn my fingers with an American stamp act. With the enemy at their back, with our bayonets at their breasts, in the day of their distress, perhaps the Americans would have submitted to the imposition; but it would have been taking an ungenerous, an unjust advantage. The gentleman boasts of his bounties to America! Are not these bounties intended finally for the benefit of this kingdom? If they are not, he has misapplied the national treasures!

I am no courtier of America. I stand up for this kingdom. I maintain that the Parliament has a right to bind, to restrain America. Our legislative power over the colonies is sovereign and supreme. When it ceases to be sovereign and supreme I would advise every gentleman to sell his lands, if he can, and embark for that country. When two countries are connected together like England and her colonies, without being incorporated, the one must necessarily govern. The greater must rule the less. But she must so rule it as not to contradict the fundamental principles that are common to both.

If the gentleman does not understand the difference between external and internal taxes, I cannot help it. There is a plain distinction between taxes levied for the purposes of raising a revenue and duties imposed for the regulation of trade, for the accommodation of the subject; although, in the consequences, some revenue may incidentally arise from the latter.

The gentleman asks, When were the colonies emancipated? I desire to know, when were they made slaves? But I dwell not upon words. When I had the honor of serving His Majesty I availed myself of the means of information which I derived from my office. I speak, therefore, from knowledge. My materials were good. I was at pains to collect, to digest, to consider them; and I will be bold to affirm that the profit to Great Britain from the trade of the colonies, through all its branches, is two millions a year. This is the fund that carried you triumphantly through the last war. The estates that were rented at two thousand pounds a year, threescore years ago, are at three thousand at present. Those estates sold then from fifteen to eighteen years purchase; the same may now be sold for thirty. You owe this to America. This is the price America pays you for her protection. And shall a miserable financier come with a boast that he can bring "a pepper-corn" into the exchequer by the loss of millions to the nation? I dare not say how much higher these profits may be augmented. Omitting the immense increase of people, by natural population, in the northern colonies, and the emigration from every part of Europe, I am convinced on other grounds that the commercial system of America may be altered to advantage. You have prohibited where you ought to have encouraged. You have encouraged where you ought to have prohibited. Improper restraints have been laid on the continent in favor of the islands. You have but two nations to trade with in America. Would you had twenty! Let acts of Parliament in consequence of treaties remain; but let not an English minister become a custom-house officer for Spain, or for any foreign power. Much is wrong! Much may be amended for the general good of the whole!

Does the gentleman complain he has been misrepresented in the public prints? It is a common misfortune. In the Spanish affair of the last war I was abused in all the newspapers for having advised his Majesty to violate the laws of nations with regard to Spain. The abuse was industriously circulated even in hand-bills. If administration did not propagate the abuse administration never contradicted it. I will not say what advice I did give the King. My advice is in writing, signed by myself, in the possession of the Crown. But I will say what advice I did not give to the King. I did not advise him to violate any of the laws of nations.

¹ This refers to a statement of Mr. Nugent, one of the debaters on the side of the Administration, that, "a peppercorn [which is a British form of purely nominal payment], in acknowledgment of the right to tax America, is of more value than millions without it."

SUPREMACY OF PARLIAMENT

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plunderer; a gentleman [Colonel Draper], whose noble and generous spirit would do honor to the proudest grandes of the country? The Americans have not acted in all things with prudence and temper: they have been wronged; they have been driven to madness by injustice. Will you punish them for the madness you have occasioned? Rather let prudence and temper come first from this side. I will undertake for America that she will follow the example. There are two lines in a ballad of Prior's, of a man's behavior to his wife, so applicable to you and your colonies, that I cannot help repeating them:

"Be to her faults a little blind;
Be to her virtues very kind."

Upon the whole, I will beg leave to tell the House what is my opinion. It is that the Stamp Act be repealed absolutely, totally, and immediately. That the reason for the repeal be assigned, viz., because it was founded on an erroneous principle. At the same time, let the sovereign authority of this country over the colonies be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever; that we may bind their trade, confine their manufactures, and exercise every power whatsoever, except that of taking their money out of their pockets without their consent.

DEBATE ON THE SUPREMACY OF PARLIAMENT

On the 27th of January, 1766, the petition of the American Congress was offered to the House of Commons. Several objections to receiving it were immediately made, such as that it came from an unauthorized and unconstitutional assembly; and that to receive a petition from persons thus assembled without any authority from the Crown would give countenance to such illegal meetings in future. Such meetings, it was said, were pregnant with danger to His Majesty's authority and government. Another strong objection to the reception of the memorial arose from the petitioners denying the right of Parliament to impose internal taxes, and questioning their right even to lay duties for the regulation of trade in the colonies. This, it was said, struck at the very vitals of legislative authority, and strongly pointed to a state independent of the mother country.

Finally, after an examination of the petition in com-

As to the report of the gentleman's preventing in some way the trade of bullion with the Spaniards, it was spoken of so confidently that I own I am one of those who did believe it to be true.

The gentleman must not wonder he was not contradicted when, as minister, he asserted the right of Parliament to tax America. I know not how it is, but there is a modesty in this House which does not choose to contradict a minister. Even your chair, sir, looks too often toward St. James'.¹ I wish gentlemen would get the better of this modesty. If they do not perhaps the collective body may begin to abate of its respect for the representative. Lord Bacon has told me that a great question would not fail of being agitated at one time or another. I was willing to agitate such a question at the proper season, viz., that of the German war—my German war, they called it! Every session I called out, Has anybody any objection to the German war? Nobody would object to it, one gentleman only excepted, since removed to the Upper House by succession to an ancient barony [Lord Le Despencer, formerly Sir Francis Dashwood]. He told me he did not like a German war. I honored the man for it, and was sorry when he was turned out of his post.

A great deal has been said without doors of the power, of the strength of America. It is a topic that ought to be cautiously meddled with. In a good cause, on a sound bottom, the force of this country can crush America to atoms. I know the valor of your troops. I know the skill of your officers. There is not a company of foot that has served in America out of which you may not pick a man of sufficient knowledge and experience to make a governor of a colony there. But on this ground, on the Stamp Act, which so many here will think a crying injustice, I am one who will lift up my hands against it.

In such a cause your success would be hazardous. America, if she fell, would fall like the strong man; she would embrace the pillars of the state, and pull down the constitution along with her. Is this your boasted peace—not to sheathe the sword in its scabbard, but to sheathe it in the bowels of your countrymen? Will you quarrel with yourselves, now the whole house of Bourbon is united against you; while France disturbs your fisheries in Newfoundland, embarrasses your slave trade to Africa, and withholds from your subjects in Canada their property stipulated by treaty; while the ransom for the Manillas is denied by Spain, and its gallant conqueror basely traduced into a mean

¹ The English royal court.

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GREAT AMERICAN DEBATES

mittee of the whole, which lasted three or four days, Secretary Henry Seymour Conway moved a resolution declaring "that the King's Majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons of Great Britain, in Parliament assembled, had, hath, and, of right, ought to have full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America subjects of Great Britain, in all cases whatsoever."

This resolution was followed by four others, declaring that the tumults and insurrections in the colonies were in open defiance of His Majesty's government; and, the same being encouraged by sundry votes and resolutions in the colonial assemblies, proper recompense must be made to those who had suffered in their persons and property.

The ministry had now determined to procure a repeal of the acts relating to stamps; and at the same time to assert in the most unqualified manner the absolute supremacy of Parliament over the colonies.

In introducing the first resolution, Gen. Conway and the Marquis of Rockingham, chancellor of the exchequer, said they were induced to offer the proposition in so extensive a manner not only as necessary to meet the resolutions and language of several of the colonies, but because, upon the fullest enquiry into the constitution of Great Britain, they were convinced that, in point of law, the King, Lords, and Commons were undoubtedly possessed of that power, though in point of policy, justice, or equity, it was a power they ought to exercise, but in the most extraordinary cases only.

Col. Barré moved to strike out the words in the declaratory resolution, "in all cases whatsoever"; he should then, he said, have no objection to it. He was seconded by Mr. Pitt.

This brought up directly the great question of the right of Parliament to tax the colonists, and the long and animated debate which followed was principally confined to this point alone.

Those in favor of the motion said, among other things, that the emigrants to the colonies carried with them every right the crown could grant, and every right of British subjects. That they carried with them the common law of the land; and that by this common law, and the spirit of the constitution, no man could be taxed without being represented—that the people of America could not, with the least propriety, be said to be represented in the Parliament of Great Britain; and it was representation alone which gave the right and power to the Commons of imposing taxes. This, they said, was the foundation of all the arguments and reasoning of Mr. Locke on the subject; and greater authority could not be produced. That the principles of *taxation* as distinguished from *legislation* were as distinct principles and powers as any two propositions under the sun; and had been so considered uniformly by their ancestors for many ages—that the counties palatine of Chester and Durham had always taxed themselves by writs of *requisition*, and on that account, when the grant of a charter was made out erecting Lancaster into a county palatine, there was an express reservation of the power of Parliament to impose taxes upon the people of that county; which would have been unnecessary if the power of Parliament was such as contended for.

That the clergy formerly taxed themselves; for, though the archbishops and others sat in Parliament, it was not as representatives of the clergy; the body of the clergy, therefore, separately and by themselves, granted subsidies to the Crown, and neither Lords nor Commons attempted to alter or vary them; and that this was a strong authority to show the difference between taxation and legislation.

That, by the principles of the constitution, the Commons alone made grants to the Crown—that all bills which passed both houses of Parliament remained in the Upper House for the fiat of the King, except bills of subsidy and taxes, which, when passed by the Lords, were again sent down to the Commons, and by the speaker presented to the sovereign as the free gift of the Commons; and of the Commons alone the King asks for a supply, and to them only he renders his thanks when granted. That by solemn compacts express powers had been granted to the colonists; powers repeatedly recognized by Parliament. It was evidently intended that the Americans should be as free as other British subjects: they have the power of raising and granting their money—a power which constitutes the essence of Parliament—if this is taken from them the very existence, the very essence, of assemblies is destroyed. The colonists, therefore,

whosoever the sovereignty of the Crown extended—that the colonists in their new settlements owed the same subjection and allegiance to the supreme power as when residing in Great Britain—that no time or distance could terminate this subjection and allegiance, and which, by the law of the land, must descend to their posterity. That no compact made between the Crown and his subjects upon their emigration could have destroyed their relation with this supreme sovereign power. That Parliament should have the power to alter or change their property, to enact laws for the punishment of great offences and, in particular, of high treason, by which they might be divested of their property, their inheritances taken away, without their immediate consent; and yet not have power to impose a tax upon that property seemed, they said, an extraordinary proposition. That, after the Revolution of 1688, upon an application to have the judgment reversed, which in 1684 had adjudged the charter of Massachusetts null and void, on a writ of *quo warranto* the agents urged the illegality of the proceedings, and insisted that the judgment should be reversed on that account, and their charter restored; yet Pollexfen and Holt were of opinion that, if the judgment should be reversed, and the charter restored, they must still expect to have it repealed, because in making the extensive grants contained in it the Crown had exceeded its authority. That in the year 1713, also, a bill was brought into Parliament for the purpose of raising a revenue in the province of New York which had been refused by the assembly there for the support of His Majesty's government; that this bill was prepared by Sir Edward Northey and Lord Raymond, who were not only able lawyers, but great supporters and defenders of the rights of the subjects. That in 1716 a bill was introduced into Parliament by the great Secretary Stanhope for resuming the powers granted in the colony charters; and that in this, and other similar cases, the power of Parliament to revoke these charters, or resume the powers therein granted, was not questioned. If Parliament, they said, could take away the charters themselves under which the colonists claimed the exclusive right of laying taxes it must have the power of taxation itself. As to representation, they said, whether actual or virtual, it was by no means the sole and ancient basis of the supreme power and authority of Parliament; the clergy, it was true, for a time taxed themselves, but not because they were unrepresented in Parliament. Gentlemen conversant with the true ancient history of Great Britain could not be ignorant, they said, of the former extensive power of the church in this king-

dom; that among other exertions of this power the Pope, at the instance of the clergy, issued his mandate exempting their lands from taxation, because appropriated to the maintenance of holy church; but, not having exempted their chattels, Parliament afterward was about to tax these, when a compact was made between the Crown and the Pope (to whom the clergy had again complained) that the bill should be rescinded, and the clergy yield a contribution to government, provided it should be made by themselves separately. This, they said, was the foundation of the clergy's subsidizing their lands and property, separate and apart, an undoubted infraction of the constitution; and this power, in after and more enlightened days, was restored. The supreme power, they said, must be complete and entire in taxation as well as legislation; that indulgence had been given to some subordinate districts and governments to raise money by way of taxation for local purposes; yet that indulgence could not abridge the supreme legislature of any of its powers and authority. Upon this principle, they stated, the Parliament of Great Britain alone could, and actually did (Ireland having that indulgence granted), absolve the people of Ireland from duties due to the Crown imposed by acts passed in their own Parliament; on the same principle the Commons of England directed that the charge of the army, kept up for the security and defence of the kingdom, should be provided for by the people of Ireland; leaving such provision to be made by the Irish Parliament; which, if not complied with, would have been enforced by a law of Great Britain, and this was so understood at the time in both kingdoms. That all the ancient subsidy acts declared that the subsidies laid and imposed were to be paid by his Majesty's subjects within the realm and *in all the King's domains*; though particular parts and places were sometimes expressly excepted, as Wales constantly before the statute of Henry VIII, Ireland, the counties Palatine, upon whom the charge of defending the northern frontier was imposed by their charter, Calais, Guienne, Gascony, and particular corporations, for certain reasons; and that if those places had not been excepted they must have paid the subsidy, though not represented in Parliament. The strength of the empire in America itself, they also declared, depended on an exact and entire obedience to the supreme authority in Great Britain; that if this authority should be infringed in any instance confusion must inevitably follow; that cases might, and undoubtedly would, happen to puzzle the ablest lawyers, to distinguish the difference between *duties* and *taxation*, between the right of laying the one or the other; that this was settled and es-

have a right to consider the Stamp Act as a grievance which should be removed. The justice of the claim upon the colonies for contribution, it was said, could not be denied; but the *mode* in which this contribution should be made was a distinct thing. That with respect to taxes Great Britain and the colonies might have opposing interests; and there was a possibility that the burdens of the one might be relieved at the expense and oppression of the other—that the circumstances and abilities of the colonists could never be so justly and truly known to the Commons of England as to their own Assemblies—there they can enjoy the exercise of that fundamental right of British subjects, to have some one to speak for them when their property is called for by way of taxes, and to represent their condition and abilities. This in Parliament is impracticable, and they are, thereby, deprived of a most important privilege. The supreme power, wherever lodged, must always be controlled by reason, by the principles of justice and humanity—the distance and situation of the colonists, however, were such that the greatest caution could not exempt them from oppression. A lenient, humane, and magnanimous conduct, it was said, did more to secure and preserve to Rome her distant colonies than all the legions she was ever mistress of, or could at any time command. Should the House, after all, be of opinion that Parliament possessed this *summum jus*, it should be remembered, they said, that *summa injuria* was its well-known offspring.

The opponents of the motion of Col. Barré rejoiced that the debate was now confined to the single question of *power* and *right* in Parliament to pass the law, so loudly complained of, without intermingling in the debate the *expediency* of its repeal; which would be a proper subject for consideration another day. In opposition to the motion it was observed that the establishment of the colonies was originally by license from the Crown—that, on account of the distance of the emigrants from the great executive power of the realm, the Crown granted them charters investing them with powers of government necessary for their protection, defence, and for the support of civil authority among them—that these powers were of the same nature with those granted to the East India company and to the great cities and corporations in England; each having power to raise money for their support, but neither, by any grant the King could make, could be exempted from the supreme authority of King, Lords, and Commons—that the Crown was but a part of the supreme power of the realm, and could not grant that which belonged to the supreme legislative power, which extended

dom; that among other exertions of this power the Pope, at the instance of the clergy, issued his mandate exempting their lands from taxation, because appropriated to the maintenance of holy church; but, not having exempted their chattels, Parliament afterward was about to tax these, when a compact was made between the Crown and the Pope (to whom the clergy had again complained) that the bill should be rescinded, and the clergy yield a contribution to government, provided it should be made by themselves separately. This, they said, was the foundation of the clergy's subsidizing their lands and property, separate and apart, an undoubted infraction of the constitution; and this power, in after and more enlightened days, was restored. The supreme power, they said, must be complete and entire in taxation as well as legislation; that indulgence had been given to some subordinate districts and governments to raise money by way of taxation for local purposes; yet that indulgence could not abridge the supreme legislature of any of its powers and authority. Upon this principle, they stated, the Parliament of Great Britain alone could, and actually did (Ireland having that indulgence granted), absolve the people of Ireland from duties due to the Crown imposed by acts passed in their own Parliament; on the same principle the Commons of England directed that the charge of the army, kept up for the security and defence of the kingdom, should be provided for by the people of Ireland; leaving such provision to be made by the Irish Parliament; which, if not complied with, would have been enforced by a law of Great Britain, and this was so understood at the time in both kingdoms. That all the ancient subsidy acts declared that the subsidies laid and imposed were to be paid by his Majesty's subjects within the realm and *in all the King's domains*; though particular parts and places were sometimes expressly excepted, as Wales constantly before the statute of Henry VIII, Ireland, the counties Palatine, upon whom the charge of defending the northern frontier was imposed by their charter, Calais, Guienne, Gascony, and particular corporations, for certain reasons; and that if those places had not been excepted they must have paid the subsidy, though not represented in Parliament. The strength of the empire in America itself, they also declared, depended on an exact and entire obedience to the supreme authority in Great Britain; that if this authority should be infringed in any instance confusion must inevitably follow; that cases might, and undoubtedly would, happen to puzzle the ablest lawyers, to distinguish the difference between *duties* and *taxation*, between the right of laying the one or the other; that this was settled and es-

established to be one entire power lodged in the commons of England in the time of William III, between the House of Lords and Commons when the Lords were disposed to establish a difference between *duties* and *impositions* on merchandize, and the grant of *taxes* and *subsidies*, with a view to confirm the power of the Commons to the latter only; but the Commons, from the long and uniform usage of Parliament, claimed this power entire and in its full extent. It was for the welfare and happiness of the whole, as well as for the dignity and honor of Parliament, it was also said, that the power now questioned by the colonists should be supported with firmness and resolution. It was not a little extraordinary that it should be now disputed by the Americans. At so late as the year 1755 a general complaint was transmitted to Great Britain against the assembly of Pennsylvania for not making the necessary provision for the defence and protection of that colony; and, but for particular circumstances, Parliament would then have interfered. That in consequence of some provincial differences Maryland, as was said, did not contribute her proportion toward the general expense of the late war, and that the other colonies had contemplated sending a representation against that colony, praying the interposition of Parliament. The Americans must then have had different views of the power which they now deny. That government is founded in trust, and that this trust, wherever placed, was absolute and entire; that the *kingdom* and *colonies* composed one great political body; and, though the jealous language of liberty could not but be admired by all who loved the constitution, yet when that jealousy was carried so far as to tell the sovereign power we will not trust you unless you give up that power, it became alarming, and called for the exertion of wisdom and spirit. Ask France, they said, what occasion for your destruction she would wish; she will answer, *divisions* between you and your colonies; she would desire the diminution of your authority over the colonies as one of the surest means of accomplishing the great object of her ambition. To preserve this sovereignty entire is then so essentially necessary for the advantage and happiness of both America and Great Britain that, if once abridged, or the entire dependency of the colonies given up, your power and authority as a great and respected kingdom and empire are gone; no friend will trust you, no enemy will fear you.

This debate was considered so important and was of such absorbing interest that it did not end until four in the morning, when the motion of Col. Barré was nega-

amend"; this was negatived, 275 to 167, and decided the fate of the resolution. In this, as well as in the preceding debates on American affairs, Mr. Grenville and his adherents were opposed to the claims of the colonists, and strongly urged the execution of the Stamp Act at every hazard. Mr. Pitt, afterward Lord Chatham, and Col. Barré were the chief opponents of Mr. Grenville.



FUNERAL PROCESSION OF THE STAMP ACT
A cartoon circulated by the Sons of Liberty
From the collection in the New York Public Library

The bill repealing the Stamp Act was passed by the Commons, together with the declaration of the right of Parliament to tax America, and on March 5, 1766, both bills were sent to the House of Lords.

The declaration of the Supremacy of Parliament had already been debated in the House of Lords. On February 3 a motion was made declaring the right of Great Britain to tax America. In the debate which followed the American cause was supported by the powerful talents of Charles Pratt, Lord Camden. As a consequence of this generous advocacy the noble lord became very popular in the colonies, many towns and counties being named in his honor.

tived by a very large majority, few voices answering in the affirmative.¹

EXAMINATION OF BENJAMIN FRANKLIN

The resolutions of General Conway were reported to the House on the 10th of February and agreed to; and the next day an inquiry began on the subject of repealing the law complained of. This inquiry and examination continued until the 18th of the same month. Dr. Benjamin Franklin among others was called before the House, and underwent a long examination. No person was better acquainted with the circumstances and internal concerns of the colonies, the temper and disposition of the colonists toward the parent country, or their feelings in relation to the late measures of Parliament. His answers to the numerous questions put to him in the course of this inquiry not only show his extensive acquaintance with the internal state of the colonies, but evince his sagacity as a statesman. To the question whether the Americans would submit to pay the stamp duty if the act were modified and the duty reduced to a small amount, he answered, "No, they never will submit to it." British statesmen were extremely desirous that the colonial assemblies should acknowledge the right of Parliament to tax them, and rescind and erase from their journals their resolutions on this subject. To a question, whether the American assemblies would do this, Dr. Franklin answered, "They never will do it, unless compelled by force of arms."

THE COMMONS REPEAL THE STAMP ACT

Soon after this examination was finished, Gen. Conway proposed a resolution to *repeal* the act imposing stamp duties in America. This produced another debate, and the same arguments were renewed. The sense of the house was first taken on a motion to strike out the word "repeal" and insert "explain and

¹ Charles Garth's MSS. Letters to South Carolina. This gentleman was a member of Parliament, and present at all the debates on American affairs.

PARLIAMENT MAY NOT CONTRAVENE NATURAL RIGHTS

LORD CAMDEN

The noble lord denied the right of Parliament to tax America, because unrepresented, saying:

My position is this—I repeat it—I will maintain to the last hour taxation and representation are inseparably connected. God has joined them, no British Parliament can separate them; to endeavor to do so is to stab our vitals. This position is founded in the law of nature. It is more, it is in itself an eternal law of nature. For whatever is a man's own is absolutely his own. No man has a right to take it from him without his consent either expressed by himself or his representative. Whoever attempts to do this attempts an injury. Whoever does it commits a robbery.

Therefore, my Lords, in my opinion the Legislature have no right to make this law. The sovereign authority, the omnipotence of the Legislature, is a favorite doctrine; but there are some things which you cannot do. You cannot take away a man's property without making him a compensation. You have no right to condemn a man by bill of attainder without hearing him. But, though Parliament cannot take away a man's property, yet every subject must make contributions, and this he consents to do by his representative. Notwithstanding the King, Lords, and Commons could in ancient times tax other people, they could not tax the clergy.

Lord Camden then repeated Pitt's argument relative to Wales and other regions of the greater island that had not been taxed when unrepresented in Parliament, and added to these the case of Ireland, of which the same was true.

He was replied to by William Murray, Lord Mansfield, whose speech is by far the ablest presentation of the affirmative side of the supremacy of Parliament. It was really directed against Pitt, though formally against Camden, whose arguments were largely repetitions of Pitt's.

NECESSITY OF A SUPREME LEGISLATURE

LORD MANSFIELD

My LORDS—I shall speak to the question strictly as a matter of right; for it is a proposition in its nature so perfectly distinct from the expediency of the tax, that it must necessarily be taken separate, if there is any true logic in the world; but of the expediency or in expediency I will say nothing. It will be time enough to speak upon that subject when it comes to be a question.

I shall also speak to the distinctions which have been taken, without any real difference, as to the nature of the tax; and I shall point out, lastly, the necessity there will be of exerting the force of the superior authority of government, if opposed by the subordinate part of it.

I am extremely sorry that the question has ever become necessary to be agitated, and that there should be a decision upon it. No one in this House will live long enough to see an end put to the mischief which will be the result of the doctrine which has been inculcated; but the arrow is shot and the wound already given. I shall certainly avoid personal reflections. No one has had more cast upon him than myself; but I never was biased by any consideration of applause from without, in the discharge of my public duty; and, in giving my sentiments according to what I thought law, I have relied upon my own consciousness. It is with great pleasure I have heard the noble Lord who moved the resolution express himself in so manly and sensible a way when he recommended a dispassionate debate, while, at the same time, he urged the necessity of the House coming to such a resolution, with great dignity and propriety of argument.

I shall endeavor to clear away from the question all that mass of dissertation and learning displayed in arguments which have been fetched from speculative men who have written upon the subject of government, or from ancient records, as being little to the purpose. I shall insist that these records are no proofs of our present constitution. A noble Lord has taken up his argument from the settlement of the constitution at the Revolution [of 1688]; I shall take up my argument from the constitution as it now is. The constitution of this country has been always in a moving state, either gaining or losing something, and with respect to the modes of taxation, when we get beyond the reign of Edward I, or of King John, we are all in doubt and obscurity. The history of those times is full of uncertainties.

sons placed in the principal towns of the conquered provinces. The states of Holland were not colonies of Spain; they were states dependent upon the house of Austria in a feudal dependence. Nothing could be more different from our colonies than that flock of men, as they have been called, who came from the North and poured into Europe. Those emigrants renounced all laws, all protection, all connection with their mother countries. They chose their leaders, and marched under their banners to seek their fortunes and establish new kingdoms upon the ruins of the Roman empire.

But our colonies, on the contrary, emigrated under the sanction of the Crown and Parliament. They were modeled gradually into their present forms, respectively, by charters, grants, and statutes; but they were never separated from the mother country, or so emancipated as to become *sui juris*. There are several sorts of colonies in British America. The charter colonies, the proprietary governments, and the King's colonies. The first colonies were the charter colonies, such as the Virginia Company; and these companies had among their directors members of the privy council and of both houses of Parliament; they were under the authority of the privy council, and had agents resident here, responsible for their proceedings. So much were they considered as belonging to the Crown, and not to the King personally (for there is a great difference, though few people attend to it), that when the two houses, in the time of Charles the First, were going to pass a bill concerning the colonies, a message was sent to them by the King that they were the King's colonies, and that the bill was unnecessary, for that the privy council would take order about them; and the bill never had the royal assent. The Commonwealth Parliament, as soon as it was settled, were very early jealous of the colonies separating themselves from them; and passed a resolution or act (and it is a question whether it is not in force now) to declare and establish the authority of England over its colonies.

But if there was no express law, or reason founded upon any necessary inference from an express law, yet the usage alone would be sufficient to support that authority; for have not the colonies submitted ever since their first establishment to the jurisdiction of the mother country? In all questions of property the appeals from the colonies have been to the privy council here; and such causes have been determined, not by the law of the colonies, but by the law of England. A very little while ago there was an appeal on a question of limitation in a devise of land with remainders; and, notwithstanding the intention of the

In regard to the writs upon record they were issued some of them according to law, and some not according to law; and such [i. e., of the latter kind] were those concerning ship-money, to call assemblies to tax themselves, or to compel benevolences. Other taxes were raised from escuage, fees for knights' service, and by other means arising out of the feudal system. Benevolences are contrary to law; and it is well known how people resisted the demands of the Crown in the case of ship-money, and were persecuted by the Court; and if any set of men were to meet now to lend the King money it would be contrary to law, and a breach of the rights of Parliament.

I shall now answer the noble Lord particularly upon the cases he has quoted. With respect to the Marches of Wales, who were the borderers, privileged for assisting the King in his war against the Welsh in the mountains, their enjoying this privilege of taxing themselves was but of a short duration, and during the life of Edward the First, till the Prince of Wales came to be the King; and then they were annexed to the Crown, and became subject to taxes like the rest of the dominions of England; and from thence came the custom, though unnecessary, of naming Wales and the town of Monmouth in all proclamations and in acts of Parliament. Henry the Eighth was the first who issued writs for it to return two members to Parliament. The Crown exercised this right *ad libitum*, from whence arises the inequality of representation in our Constitution at this day. Henry VIII. issued a writ to Calais to send one Burgess to Parliament. One of the counties palatine [I think he said Durham] was taxed fifty years to subsidies before it sent members to Parliament. The clergy were at no time unrepresented in Parliament. When they taxed themselves it was done with the concurrence and consent of Parliament, who permitted them to tax themselves upon their petition, the Convocation sitting at the same time with the Parliament. They had, too, their representatives always sitting in this House, bishops and abbots; and, in the other House, they were at no time without a right of voting singly for the election of members; so that the argument fetched from the case of the clergy is not an argument of any force, because they were at no time unrepresented here.

The reasoning about the colonies of Great Britain, drawn from the colonies of antiquity, is a mere useless display of learning; for the colonies of the Tyrians in Africa, and of the Greeks in Asia, were totally different from our system. No nation before ourselves formed any regular system of colonization but the Romans; and their system was a military one, and of garri-

testator appeared very clear, yet the case was determined contrary to it, and that the land should pass according to the law of England. A very little while ago there was an appeal on a question of limitation in a devise of land with remainders; and, notwithstanding the intention of the testator appeared very clear, yet the case was determined contrary to it, and that the land should pass according to the law of England. The colonies have been obliged to recur very frequently to the jurisdiction here, to settle the disputes among their own governments. I well remember several references on this head, when the late Lord Hardwicke was attorney general, and Sir Clement Wearg solicitor general. New Hampshire and Connecticut were in blood about their differences; Virginia and Maryland were in arms against each other. This shows the necessity of one superior decisive jurisdiction, to which all subordinate jurisdictions may recur. Nothing, my Lords, could be more fatal to the peace of the colonies at any time than the Parliament giving up its authority over them; for in such a case there must be an entire dissolution of government. Considering how the colonies are composed, it is easy to foresee there would be no end of feuds and factions among the several separate governments, when once there shall be no one government here or there of sufficient force or authority to decide their mutual differences; and, government being dissolved, nothing remains but that the colonies must either change their Constitution, and take some new form of government, or fall under some foreign power. At present the several forms of their Constitution are very various, having been produced, as all governments have been originally, by accident and circumstances. The forms of government in every colony were adopted, from time to time, according to the size of the colony; and so have been extended again, from time to time, as the numbers of their inhabitants and their commercial connections outgrew the first model. In some colonies at first there was only a governor assisted by two or three counsel; then more were added; afterward courts of justice were erected; then assemblies were created. Some things were done by instructions from the secretaries of state; other things were done by order of the King and council; and other things by commissions under the great seal. It is observable that in consequence of these establishments from time to time, and of the dependency of these governments upon the supreme Legislature at home, the lenity of each government in the colonies has been extreme toward the subject; and a great inducement has been created for people to come and

settle in them. But, if all those governments which are now independent of each other should become independent of the mother country, I am afraid that the inhabitants of the colonies are very little aware of the consequences. They would feel in that case very soon the hand of power more heavy upon them in their own governments than they have yet done, or have ever imagined.

The constitutions of the different colonies are thus made up of different principles. They must remain dependent, from the necessity of things, and their relations to the jurisdiction of the mother country; or they must be totally dismembered from it, and form a league of union among themselves against it, which could not be effected without great violence. No one ever thought the contrary till the trumpet of sedition was blown. Acts of Parliament have been made, not only without a doubt of their legality, but with universal applause, the great object of which has been ultimately to fix the trade of the colonies, so as to center in the bosom of that country from whence they took their original. The Navigation Act shut up their intercourse with foreign countries. Their ports have been made subject to customs and regulations which have cramped and diminished their trade. And duties have been laid, affecting the very inmost parts of their commerce, and, among others, that of the post; yet all these have been submitted to peaceably, and no one ever thought till now of this doctrine, that the colonies are not to be taxed, regulated, or bound by Parliament. A few particular merchants were then, as now, displeased at restrictions which did not permit them to make the greatest possible advantages of their commerce in their own private and peculiar branches. But, though these few merchants might think themselves losers in articles which they had no right to gain, as being prejudicial to the general and national system, yet I must observe that the colonies, upon the whole, were benefited by these laws. For these restrictive laws, founded upon principles of the most solid policy, flung a great weight of naval force into the hands of the mother country, which was to protect its colonies. Without a union with her the colonies must have been entirely weak and defenceless, but they thus became relatively great, subordinately, and in proportion as the mother country advanced in superiority over the rest of the maritime powers in Europe, to which both mutually contributed, and of which both have reaped a benefit, equal to the natural and just relation in which they both stand reciprocally, of dependency on one side and protection on the other.

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With respect to what has been said or written upon this subject I differ from the noble Lord, who spoke of Mr. Otis and his book¹ with contempt, though he maintained the same doctrine in some points, while in others he carried it farther than Otis himself, who allows everywhere the supremacy of the Crown over the colonies. No man, on such a subject, is contemptible. Otis is a man of consequence among the people there. They have chosen him for one of their deputies at the Congress and general meeting from the respective governments. It was said the man is mad. What then? One madman often makes many. Masaniello² was mad. Nobody doubts it; yet, for all that, he overturned the government of Naples. Madness is catching in all popular assemblies and upon all popular matters. The book is full of wildness. I never read it till a few days ago, for I seldom look into such things. I never was actually acquainted with the contents of the Stamp Act till I sent for it on purpose to read it before the debate was expected. With respect to authorities in *another House*, I know nothing of them. I believe that I have not been in that House more than once since I had the honor to be called up to this; and, if I did know any thing that passed in the other House, I could not and would not mention it as an authority here. I ought not to mention any such authority. I should think it beneath my own and your Lordship's dignity to speak of it.

I am far from bearing any ill will to the Americans; they are a very good people, and I have long known them. I began life with them, and owe much to them, having been much concerned in the plantation causes before the privy council; and so I became a good deal acquainted with American affairs and people. I dare say their heat will soon be over, when they come to feel a little the consequences of their opposition to the Legislature. Anarchy always cures itself; but the ferment will continue so much the longer, while hot-headed men there find that there are persons of weight and character to support and justify them here.

Indeed, if the disturbances should continue for a great length of time force must be the consequence, an application adequate to the mischief, and arising out of the necessity of the case; for

¹ This may be "The Rights of the Colonies Asserted and Proved," published in 1764 in Boston, or "A Vindication of the Conduct of the House of Representatives of Massachusetts," published in 1762.

² Properly Tommaso Aniello, a fisherman who led a successful revolt in 1647 against the Duke of Arcos, Spanish viceroy of Naples, who had heavily taxed the people. Succeeding, his reason became impaired by the change of fortune, and, alienating his supporters by his arbitrary acts, he was assassinated by adherents of the viceroy.

There can be no doubt, my Lords, but that the inhabitants of the colonies are as much represented in Parliament as the greatest part of the people of England are represented; among nine millions of whom there are eight which have no votes in electing members of Parliament. Every objection, therefore, to the dependency of the colonies upon Parliament, which arises to it upon the ground of representation, goes to the whole present Constitution of Great Britain; and I suppose it is not meant to new-model *that*, too. People may form speculative ideas of perfection, and indulge their own fancies or those of other men. Every man in this country has his particular notion of liberty; but perfection never did, and never can, exist in any human institution. To what purpose, then, are arguments drawn from a distinction—in which there is no real difference—of a virtual and actual representation? A member of Parliament, chosen for any borough, represents not only the constituents and inhabitants of that particular place, but he represents the inhabitants of every other borough in Great Britain. He represents the city of London, and all the other commons of this land, and the inhabitants of all the colonies and dominions of Great Britain; and is, in duty and conscience, bound to take care of their interests.

I have mentioned the customs and the post tax. This leads me to answer another distinction, as false as the above; the distinction of internal and external taxes. The noble Lord who quoted so much law, and denied upon those grounds the right of the Parliament of Great Britain to lay internal taxes upon the colonies, allowed at the same time that restrictions upon trade, and duties upon the ports, were legal. But I cannot see a real difference in this distinction; for I hold it to be true that a tax laid in any place is like a pebble falling into and making a circle in a lake, till one circle produces and gives motion to another, and the whole circumference is agitated from the center. For nothing can be more clear than that a tax of ten or twenty per cent. laid upon tobacco, either in the ports of Virginia or London, is a duty laid upon the inland plantations of Virginia, a hundred miles from the sea, wheresoever the tobacco grows.

I do not deny but that a tax may be laid injudiciously and injuriously, and that people in such a case may have a right to complain. But the nature of the tax is not now the question; whenever it comes to be one I am for lenity. I would have no blood drawn. There is, I am satisfied, no occasion for any to be drawn. A little time and experience of the inconveniences and miseries of anarchy may bring people to their senses.

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force is only the difference between a superior and subordinate jurisdiction. In the former the whole force of the Legislature resides collectively, and when it ceases to reside the whole connection is dissolved. It will, indeed, be to very little purpose that we sit here enacting laws, and making resolutions, if the inferior will not obey them, or if we neither can nor dare enforce them; for then, and then, I say, of necessity, the matter comes to the sword. If the offspring are grown too big and too resolute to obey the parent you must try which is the strongest, and exert all the powers of the mother country to decide the contest.

I am satisfied, notwithstanding, that time and a wise and steady conduct may prevent those extremities which would be fatal to both. I remember well when it was the violent humor of the times to decri standing armies and garrisons as dangerous and incompatible with the liberty of the subject. Nothing would do but a regular militia. The militia are embodied; they march; and no sooner was the militia law thus put into execution, but it was then said to be an intolerable burden upon the subject, and that it would fall, sooner or later, into the hands of the Crown. That was the language, and many counties petitioned against it. This may be the case with the colonies. In many places they begin already to feel the effects of their resistance to government. Interest very soon divides mercantile people; and, although there may be some mad, enthusiastic, or ill-designing people in the colonies, yet I am convinced that the greatest bulk, who have understanding and property, are still well affected to the mother country. You have, my Lords, many friends still in the colonies; and take care that you do not, by abdicating your own authority, desert them and yourselves, and lose them forever.

In all popular tumults the worst men bear the sway at first. Moderate and good men are often silent for fear or modesty, who, in good time, may declare themselves. Those who have any property to lose are sufficiently alarmed already at the progress of these public violence and violations, to which every man's dwelling, person, and property are hourly exposed. Numbers of such valuable men and good subjects are ready and willing to declare themselves for the support of government in due time, if government does not fling away its own authority.

My Lords, the Parliament of Great Britain has its rights over the colonies; but it may abdicate its rights.

There was a thing which I forgot to mention. I mean, the manuscript quoted by the noble Lord. He tells you that it is there said that, if the act concerning Ireland had passed, the

Parliament might have abdicated its rights as to Ireland. In the first place, I heartily wish, my Lords, that Ireland had not been named, at a time when that country is of a temper and in a situation so difficult to be governed; and when we have already here so much weight upon our hands, encumbered with the extensiveness, variety, and importance of so many objects in a vast and too busy empire, and the national system shattered and exhausted by a long, bloody, and expensive war, but more so by our divisions at home, and a fluctuation of counsels. I wish Ireland, therefore, had never been named.

I pay as much respect as any man to the memory of Lord Chief Justice Hale; but I did not know that he had ever written upon the subject; and I differ very much from thinking, with the noble Lord, that this manuscript ought to be published. So far am I from it that I wish the manuscript had never been named; for Ireland is too tender a subject to be touched. The case of Ireland is as different as possible from that of our colonies. Ireland was a conquered country; it had its *pacta conventa* and its *regalia*. But to what purpose is it to mention the manuscript? It is but the opinion of one man. When it was written, or for what particular object it was written, does not appear. It might possibly be only a work of youth, or an exercise of the understanding, in sounding and trying a question problematically. All people, when they first enter professions, make their collections pretty early in life; and the manuscript may be of that sort. However, be it what it may, the opinion is but problematical; for the act to which the writer refers never passed, and Lord Hale only said that if it had passed the Parliament might have abdicated their right.

But, my Lords, I shall make this application of it. You may abdicate your right over the colonies. Take care, my Lords, how you do so, for such an act will be irrevocable. Proceed, then, my Lords, with spirit and firmness; and, when you shall have established your authority, it will then be a time to show your lenity. The Americans, as I said before, are a very good people, and I wish them exceedingly well; but they are heated and inflamed. The noble Lord who spoke before ended with a prayer. I cannot end better than by saying to it Amen; and in the words of Maurice, Prince of Orange, concerning the Hollanders: "*God bless this industrious, frugal, and well-meaning, but easily deluded people.*"

The Stamp Act was repealed, and the Declaratory Act was passed, each by a large majority.

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to superintend the execution of all the laws of Parliament relating to American trade.

These acts created a great stir in the colonies. John Dickinson of Pennsylvania wrote in a homely style, calculated to appeal to the common people, "Letters of a Pennsylvania Farmer," which presented the unconstitutionality as well as the injustice of the acts. They were universally read in America, and, translated into French, they greatly inclined the people of France toward the American cause.

Josiah Quincy, Jr., a young Boston lawyer, published in the *Boston Gazette* a series of extremely able articles against the "Townshend Acts," under the pen-name of "Hyperion."

The most eloquent of these articles was Quincy's "Appeal," which appeared in the *Boston Gazette* of October 3, 1768.

APPEAL TO AMERICANS

JOSIAH QUINCY, JR.

If ever there was a time, this is the hour for Americans to rouse themselves and exert every ability. Their all is at a hazard, and the die of fate spins doubtful! In vain do we talk of magnanimity and heroism; in vain do we trace a descent from the worthies of the earth, if we inherit not the spirit of our ancestors. Who is he who boasteth of his patriotism? Has he vanquished luxury, and subdued the worldly pride of his heart? Is he not yet drinking the poisonous draught and rolling the sweet morsel under his tongue? He who cannot conquer the little vanity of his heart, and deny the delicacy of a debauched palate, let him lay his hand upon his mouth, and his mouth in the dust.

Now is the time for this people to summon every aid, human and divine; to exhibit every moral virtue, and call forth every Christian grace. The wisdom of the serpent, the innocence of the dove, and the intrepidity of the lion, with the blessing of God, will yet save us from the jaws of destruction.

Where is the boasted liberty of Englishmen, if property may be disposed of, charters suspended, assemblies dissolved, and every valued right annihilated, at the uncontrollable will of an external power? Does not every man who feels one ethereal

CHAPTER III

"NO TAXATION WITHOUT REPRESENTATION"

[CONTRIVERSY BETWEEN THE COLONIAL ASSEMBLIES AND PARLIAMENT]

The Townshend Taxes—John Dickinson [Pa.] and Josiah Quincy, Jr. [Mass.], oppose them—Declaration of the Massachusetts Assembly—Controversy between Lord Hillsborough and James Otis [Mass.]—Non-importation Agreement of Colonial Merchants—Royal Troops in the Colonies: Protest of Massachusetts Assembly—Parliament Demands Trial in England of Colonial Traitors: Protest of Virginia Assembly—"Appeal to the World" by Boston Citizens—All Taxes Repealed Save on Tea—The Boston Massacre—The Boston Tea Party—Speech of Josiah Quincy, Jr.: "Let Us Look to the End"—Parliament Closes Boston Port, and Dissolves Massachusetts Assembly: Protest of Col. Isaac Barré: "Olive Branch or Sword?"—Colonial Protests against the Bills—First Continental Congress Assembles: Its Addresses and Petitions—Eloquence of Patrick Henry [Va.]—Debate over Plan for Government of Colonies by Crown: in favor, Joseph Galloway [Pa.], John Jay [N. Y.], Edward Rutledge [S. C.]; opposed, Henry; it is defeated.

IN July, 1766, a new administration was formed in the British Government under the direction of William Pitt, who was made Earl of Chatham. Composed of men of different political parties, the Tory element was strong enough to revive the subject of taxing America. In May, 1767, Charles Townshend, chancellor of the exchequer, under the instigation of Ex-Minister George Grenville, submitted to the House of Commons a bill imposing duties on glass, paper, painters' materials, and tea, imported into the colonies, its preamble declaring that the impost was to defray the expenses of defending these provinces. Owing probably to Lord Chatham's absence from sickness, the bill passed both Houses without much opposition in June. Royal commissioners were appointed for the colonies

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spark yet glowing in his bosom find his indignation kindle at the bare imagination of such wrongs? What would be our sentiments were this imagination realized?

Did the blood of the ancient Britons swell our veins, did the spirit of our forefathers inhabit our breasts, should we hesitate a moment in preferring death to a miserable existence in bondage? Did we reflect on their toils, their dangers, their fiery trials, the thought would inspire unconquerable courage.

Who has the front to ask, "wherefore do you complain"? Who dares assert everything worth living for is not lost when a nation is enslaved? Are not pensioners, stipendiaries, and salary men (unknown before) hourly multiplying on us, to riot in the spoils of miserable America? Does not every eastern gale waft us some new insect, even of that devouring kind which eat up every green thing? Is not the bread taken out of the children's mouths, and given unto the dogs? Are not our estates given to corrupt sycophants, without a design, or even a pretence, of soliciting our assent, and our lives put into the hands of those whose tender mercies are cruelties? Has not an authority in a distant land, in the most public manner, proclaimed a right of disposing of the *all* of Americans? In short, what have we to lose—what have we to fear? Are not our distresses more than we can bear; and, to finish all, are not our cities, in a time of profound peace, filled with standing armies, to preclude us from that last solace of the wretched—to open their mouths in complaint, and send forth their cries in bitterness of heart?

But is there no ray of hope? Is not Great Britain inhabited by the children of those renowned barons who waded through seas of crimson gore to establish their liberty; and will they not allow us, their fellow-men, to enjoy that freedom which we claim from nature, which is confirmed by our constitution, and which they pretend so highly to value? Were a tyrant to conquer us, the chains of slavery, when opposition should become useless, might be supportable; but to be shackled by Englishmen—by our equals—is not to be borne!

By the sweat of our brow we earn the little we possess: from nature we derive the common rights of man—and by charter we claim the liberties of Britons! Shall we, dare we, pusillanimously surrender our birthright? Is the obligation to our fathers discharged—is the debt we owe posterity paid? Answer me, thou coward, who hidest thyself in the hour of trial! If there is no reward in this life, no prize of glory in the next, capable of animating thy dastard soul; think and tremble, thou miscreant, at the whips and stripes thy master shall lash thee

with on earth—and the flames and scorpions thy second master shall torment thee with hereafter!

Oh, my countrymen! what will our children say, when they read the history of these times, should they find we tamely gave away, without one noble struggle, the most invaluable of earthly blessings? As they drag the galling chain, will they not excrete us? If we have any respect for things sacred; any regard to the dearest treasure on earth—if we have one tender sentiment for posterity; if we would not be despised by the whole world—let us, in the most open, solemn manner, and with determined fortitude, swear we will die, if we cannot live freemen!

Be not lulled, my countrymen, with vain imaginations, or idle fancies. To hope for the protection of heaven, without doing our duty, and exerting ourselves as becomes men, is to mock the Deity. Wherefore had man his reason, if it were not to direct him? Wherefore his strength, if it be not his protection? To banish folly and luxury, correct vice and immorality, and stand immovable in the freedom in which we are free indeed is eminently the duty of each individual, at this day. When this is done we may rationally hope for an answer to our prayers; for the whole counsel of God, and the invincible armor of the Almighty.

However righteous our cause we cannot, in this period of the world, expect a miraculous salvation. Heaven will undoubtedly assist us, if we act like men; but to expect protection from above, while we are enervated by luxury, and slothful in the exertion of those abilities with which we are endued, is an expectation vain and foolish. With the smiles of Heaven, virtue, unanimity, and firmness will ensue success. While we have equity, justice, and God on our side, tyranny, spiritual or temporal, shall never ride triumphant in a land inhabited by Englishmen.

The Massachusetts House of Representatives in January, 1768, protested to the King and the Ministry against the new taxes, on the ground that the colonies were not represented in the Parliament which enacted them. They said:

The original contract between the King and the first planters here was a royal promise in behalf of the nation, and which, till very lately, was never questioned, but the King had the power to make, namely, that "if the adventurers would, at their own cost and expense, and at the hazard of their lives, and everything dear to them, purchase a *new world*, subdue a wilderness, and

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directing him at the next meeting of the General Assembly of that colony "to require of the House of Representatives, in His Majesty's name, to *rescind* the resolution which gave birth to the circular letter of the speaker, and to declare their disapprobation of, and dissent to, that *rash* and *hasty* proceeding." If the House refused compliance, he was directed immediately to dissolve the Assembly, and to transmit their proceedings to the King, that measures might be taken to prevent for the future "a conduct of so extraordinary and unconstitutional a nature."

A circular letter was, at the same time, addressed to the governors of the other colonies declaring this measure of the people of Massachusetts "to be of a most *dangerous* and *factions* tendency, calculated to enflame the minds of His Majesty's good subjects in the colonies, to promote an unwarrantable *combination*, and to excite and encourage an open opposition to, and denial of, the authority of Parliament, and to subvert the true principles of the constitution"; directing them, also, to exert their utmost influence, to defeat "this flagitious attempt to disturb the public peace," by prevailing upon the assemblies to take no notice of it, and thereby treat it with the *contempt* it deserved.

REPLIES OF THE COLONIES

The House of Representatives of Massachusetts in June, 1768, peremptorily refused to rescind the proceedings of the preceding Assembly, declaring their right as British subjects in a respectful manner to petition the King and Parliament for a redress of grievances, and to request the other colonies to unite with them for the same purpose. They also addressed a letter to Lord Hillsborough, giving him a detailed account of the transaction, and repelling the suggestion made by him that the same was a *rash* and *flagitious attempt* to disturb the public peace. The House viewed the letter of Lord Hillsborough as an unwarrantable attempt on their rights; and, in their answer to the communication of the Governor on this subject, expressed themselves with

thereby enlarge the King's dominions, they and their posterity should enjoy such rights and privileges as in their charter are expressed; which are, in general, all the rights, liberties, and privileges of His Majesty's natural born subjects, within the realm."

The principal privileges implied, and in some of their charters expressed, is a freedom from all taxes but such as they shall consent to, in person, or by representatives of their own choice and election.

In reference to the appropriation of the new duties to the support of Crown officers and to the maintenance of troops in America the Assembly said:

Such a power under a corrupt administration, it is feared, would introduce an absolute government in America; at least, it would leave the people in a state of uncertainty of their security, which is far from being a state of civil liberty. The judges in the several colonies do not hold their commissions during good behavior. If, then, they are to have their salaries independent of the people, how easy it will be for a corrupt governor to have a set of judges to his mind, to deprive a bench of justice of its glory and the people of their security.

The House, during the same session, also addressed a circular letter to the colonies, stating the difficulties to be apprehended by the operation of the late acts of Parliament; and requesting their coöperation for redress.

The other colonies approved of the proceedings of Massachusetts, and joined in applying to the King for relief.

THE PETITIONERS REBUKED

The circular letter of Massachusetts created no little alarm in the British cabinet. They viewed it as an attempt to convene another congress, to concert measures in opposition to the authority of Parliament. Union and concert among the colonies was a peculiar object of dread with the ministers; and they were determined, if possible, to prevent every measure leading to it. A letter from Lord Hillsborough, Secretary of State, was therefore addressed to the Governor of Massachusetts,

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no little warmth. "If the votes of the House were to be controlled by the *direction* of a minister," said these bold inheritors of the spirit of Pym and Hampden, "we have left us but a *shadow of liberty*!"

On the question to rescind, James Otis said: "When Lord Hillsborough knows that we will not rescind our acts, let him apply to Parliament to rescind theirs. Let Britain rescind their measures, or they are lost forever."

The ministerial mandate to the other colonies was equally disregarded.

NON-IMPORTATION AGREEMENT

During the summer of this year (1768), the merchants of Massachusetts, Connecticut, and New York, and, later, of Pennsylvania and other colonies, again had recourse to a non-importation agreement, particularly with respect to the articles on which duties were imposed. This was done, not only to obtain a repeal of the late revenue act, but with a view of encouraging *manufactures* in the colonies.

ROYAL TROOPS IN THE COLONIES

From 1765, when soldiers had been quartered on some of the colonies by act of Parliament, the provincial assemblies concerned had made repeated protests against their presence, and on constitutional grounds had refused to vote money for their maintenance. This greatly angered the British Government, and in July, 1767, Parliament inhibited the Massachusetts Assembly, which had been particularly obstinate, from passing any act whatever until it had voted supplies to the royal troops.

On the rumor that new troops were coming to Boston to enforce the acts of Parliament, a convention representing 96 Massachusetts towns met in Boston on September 22, 1768, and protested to the King against such coercion. They denied that they were inspired by a desire for independence.

"We clearly hold that the *sovereignty of His Sacred Majesty, King George the Third*, is entire in all parts of the British empire: God forbid that we should ever act or wish anything in oppugnation of the same. We appear as plain honest men, humbly soliciting peace and order. We wish ever to promote and cultivate a harmony and union between Great Britain and the colonies."

On the 15th of December, 1768, the House of Lords passed a number of resolutions severely censuring the conduct of the people of Massachusetts, and declaring in particular that the proceedings of Boston in calling a convention were subversive of His Majesty's Government and manifested a design to set up a new and unconstitutional authority independent of the Crown of Great Britain; and that the meeting of the convention was a daring insult offered to His Majesty's authority, and an audacious usurpation of the powers of government.

These resolutions were, about the first of February, agreed to by the House of Commons; and a joint address was at the time presented to the King, requesting him to direct the Governor of Massachusetts to transmit to the British Government full information "touching all *treasons*" in the province, in order that the accused parties might be tried "*within the realm*," if His Majesty "saw sufficient ground for such a proceeding."

The King in answer to this address assured Parliament of his determination to give the necessary orders for bringing the authors of the unhappy disorders in Massachusetts to condign punishment.

Though these proceedings of Parliament pointed principally to Massachusetts, yet all the colonists considered themselves as deeply affected and were more firmly united than ever in opposition to this extraordinary claim of right to transport the colonists to England for trial for supposed offences committed in America.

The House of Burgesses in Virginia, early in May, 1769, declared that the sending of a colonist suspected of crime "beyond the seas to be tried is highly derogatory."

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vindicated themselves and the colonists in general from aspersions cast upon them by Governor Bernard and others, but on the subject of the right of Parliament to impose taxes or duties upon them in any way expressed themselves in bold and determined language:

"Nothing short of a repeal of all the *revenue acts*, and putting things on the footing they were before the late innovations, can or will satisfy the minds of the people. Fleets and armies may overawe our towns, admiralty courts and boards of commissioners, with their swarms of underlings, may, by a vigorous execution of the same unconstitutional acts, ruin our commerce and render America of little use to the people of Britain; but while every farmer is a freeholder the spirit of liberty will prevail, and every attempt to divest them of their privileges of freedom must be attended with consequences injurious to the colonies and the mother country."

REPEAL OF ALL TAXES SAVE ON TEA

Parliament again met on the 9th of January, 1770, and soon after the Duke of Grafton, First Lord of the Treasury, resigned, and the celebrated Lord North was appointed in his room. Though the speech from the throne declared that combinations still existed to destroy the commercial connection between Great Britain and her colonies, and though America was not yet "prostrate at the feet of the Ministry," Lord North himself, on the 5th of March, 1770, introduced a bill taking off the duties imposed by the act of 1767 on all the articles except tea. This partial repeal, which took place on the 12th of April, though not satisfactory, served in some measure to tranquilize the minds of the Americans. The insignificant duty on tea was continued for the purpose of maintaining the supremacy of Parliament, and, like a peppercorn rent, was reserved to show the tenure by which the colonists held their rights. The House of Burgesses in Virginia in a petition to the King declared that a partial suspension of the duties would not remove their too well grounded fears and apprehensions while that on tea was retained "for the avowed purpose of establishing a precedent against them."

tory of the rights of British subjects, as thereby the inestimable privilege of trial by a jury from the vicinage, as well as the liberty of producing witnesses on such trial, will be taken away from the party accused."

The House of Burgesses also prepared a petition to the King on this subject, couched in strong and feeling language.

DUTIES REMOVED SAVE ON TEA

The British Ministry, becoming alarmed at the spirit of resistance in the colonies, had promised, in a circular letter to the colonial governors, that, as a matter of pure commercial policy, Parliament would remove all taxes save on tea (which was retained to maintain the right of Parliament to tax America). The various assemblies repudiated this as not being a concession of the principle for which they contended.

On October 4, 1769, the people of Boston, in a town meeting, published "An Appeal to the World," in which they not only vindicated themselves from the "false, scandalous and infamous libels" upon them, contained, as they said, in some of the letters of Governor Bernard and others laid before Parliament; but also declared "that the taking off the duties on paper, glass and colors, merely on commercial principles, would not be satisfactory; that it would not relieve trade from its burdens, much less remove the grounds of discontent which prevailed through the continent, upon higher principles."

"Their rights," they said, "are invaded by those acts; therefore until they are all repealed the *cause* of their just complaints cannot be removed. In short, the grievances which lie heavily upon us we shall never think redressed till every act passed by the British Parliament for the express purpose of raising a revenue upon us without our consent is *repealed*; till the American board of commissioners of the customs is *dissolved*, the troops *recalled*, and things are restored to the state they were in before the late extraordinary measures of administration took place."

The merchants of Philadelphia in November of this year, in a letter to the merchants of London, not only

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THE BOSTON MASSACRE

As a result of the irritating presence of the royal troops in Boston a quarrel arose on March 5, 1770, between them and some of the citizens, in which eleven persons were either killed or wounded. Captain Preston and others of the soldiers were indicted for murder,



BOSTON MASSACRE COFFINS

The initials are for the slain Bostonians, *e. g.*, C A represents Crispus Attucks, the mulatto who led the mob
From the "American Historical Record"

but were acquitted largely owing to the eloquent defence made by their counsel, John Adams and Josiah Quincy, Jr. The anniversary of the event was observed annually for a number of years. The orations upon these occasions were wont to be inflammatory. Speeches by John Hancock and Dr. Joseph Warren were notably so.

THE BOSTON TEA-PARTY

The application by the colonists to the remaining tax, that on tea, caused the importation of the article into the colonies to cease, and the British Ministry began to devise means for forcing its introduction into America that the sovereignty of Parliament might be practically asserted.

In May, 1773, the Ministry procured an act of Parliament permitting the East India Company to export their teas to America, with a drawback of all the duties paid in England. By thus rendering the article cheaper in the colonies than in Great Britain it was supposed

the Americans would be induced to pay the small duty upon it.

Concerning this act, a correspondence committee of Massachusetts, instituted for the purpose of fostering a common resistance among the colonies, wrote:

We cannot close without mentioning a fresh instance of the temper and design of the British ministry in allowing the East India Company, with a view of conciliating them, to ship their *teas* to America. It is easy to see how aptly this scheme will serve both to destroy the *trade* of the colonies and increase the *revenue*. How necessary, then, it is that each colony should take *effectual methods* to prevent this measure from having its designed effects.

In consequence of this act the company shipped large quantities of tea to different parts of the colonies, consigned to their particular friends or the friends of government, to be sold for their benefit. The shipments were principally made to Charleston, Philadelphia, New York and Boston. The colonists at once perceived that if the tea was permitted to be landed the duty must be paid, and that it would be difficult, if not impossible, to prevent its sale and consumption, and so they resolved that the tea should not be landed. On its arrival at Charleston it was indeed landed and put into stores, but the consignees were not permitted to offer it for sale. Such was the determined opposition at Philadelphia and New York that the consignees at these places declined taking charge of it, and the vessels with the tea on board returned to Great Britain without an entry at the custom house. The citizens of Boston held several town meetings at which they passed resolutions declaring that the tea should not be landed, or the duty paid, but be returned in the same vessels in which it came without an entry; they also declared they would support these resolutions at the risk of life and property, and they directed the captains of the vessels not to land the tea, but to apply for clearances without an entry of the vessels or cargoes. The collector, however, refused such applications, and the governor gave orders to Admiral Montague, then in the harbor of Boston, to guard all the passes out, and also directed the com-

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those measures which must bring on the *most trying and terrible struggle* this country ever saw.

I see the clouds which now rise thick and fast on the horizon; the thunders roll, and the lightnings play, and to that God who rides on the whirlwind and directs the storm I commit my country.

When it was announced that the governor refused the passport Samuel Adams said, "This meeting can do nothing more to save the country." A war-whoop sounded from the gallery; the meeting was dissolved. Some one remarked, "Who knows how tea will mingle with salt-water!" and immediately after two or three different parties of men, previously selected, no doubt, some of them dressed in the habit of Indians, ran toward the wharves shouting, "To Griffin's wharf! Boston harbor a teapot to-night!" There the people repaired, and in three hours the tea was emptied from its 342 chests into the waters of the ocean in the presence of thousands of spectators. This being done, the people returned quietly to their dwellings. The next day Boston rang its bells, fired guns, and beat drums in celebration of the event. Samuel Adams said, "Oh, this is the most magnificent movement of all!" Lesser celebrations occurred in New York and Philadelphia and even in the Southern cities.

On the 7th of March, 1774, the papers relating to these transactions in America were laid before Parliament by the King. In his message to the two houses His Majesty said that he confided not only in their taking such measures as would "put an immediate stop to the present disorders," but also in their considering "what further provisions may be necessary to be established for securing the execution of the laws, and the just dependence of the colonies upon the Crown and Parliament of Great Britain."

THE BOSTON PORT BILL

Both houses in their answers assured His Majesty of their determination to make such provision as should secure the just dependence of the colonies and due

mander of the Castle to suffer no vessel except coasters to pass without a permit signed by himself. In the meantime the people of Boston for many nights kept watch at the wharves to prevent the landing of the tea. In this situation the leaders came to the bold resolution of destroying the tea itself.

On December 16 many thousands of the inhabitants of Boston and its vicinity met in the Old South Meeting-house and confirmed their former resolutions against the landing of the tea. During this meeting the captain of one of the vessels was sent, for the last time, to the governor, then at his seat at Milton, to request a passport.

The patriotic leaders, fully aware of the momentous consequences of the refusal of the Governor, had already anticipated them. During the absence of the messenger, and while the people assembled on the occasion were waiting his return with extreme solicitude, Josiah Quincy, Jr., addressed them.

Mr. Quincy began his speech by reminding his hearers of the consequences of the act which they were about to perform.

LET US LOOK TO THE END

JOSIAH QUINCY, JR.

It is not the spirit that vapors within these walls that must stand us in stead. The exertions of this day will *call forth events* which will make a very different spirit necessary for our salvation. Look to the end. Whoever supposes that shouts and hosannas will terminate the trials of the day entertains a childish fancy. We must be grossly ignorant of the importance and value of the prize for which we contend; we must be equally ignorant of the powers of those who have combined against us; we must be blind to that malice, inveteracy, and insatiable revenge which actuate our enemies, public and private, abroad and in our bosoms, to hope we shall end this controversy without the sharpest conflicts; to flatter ourselves that popular resolves, popular harangues, popular acclamations, and popular vapor will vanquish our fears. Let us consider the issue. Let us look to the end. Let us *weigh and consider* before we advance to

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obedience to the laws throughout all his dominions. On the 31st of March a bill which had passed both houses interdicting all commercial intercourse with the town of Boston, and, after the first of June following, prohibiting the landing or shipping any goods at that port, received the sanction of the King.

REGULATION OF MASSACHUSETTS GOVERNMENT

Soon after the passage of the "Boston Port Bill," as it was called, the Ministry presented a bill "for the better regulating the government of the province of Massachusetts Bay." This bill passed both houses by large majorities, and on the 20th of May became a law by the assent of the King.

By this act the people of Massachusetts were, without a hearing, deprived of some of the most important rights and privileges secured to them by their charter; rights which they had enjoyed from the first settlement of the colony.

The members of the council, heretofore under the charter chosen by the General Assembly, were now to be selected by the King; and the right of selecting jurors by the inhabitants of the several towns was taken from them. No part of this act, however, or, indeed, of any other act of the British Government, was more deeply felt by every freeholder in Massachusetts than that relating to town meetings. The liberty of convening at pleasure, which they considered as their sacred birth-right, was taken from them, for, by this act, no town meeting could be called without leave of the governor, except the annual meeting in March or May.

To secure the due execution of the laws in the colonies some further provision was deemed necessary by Parliament. A third law therefore soon after passed, "for the impartial administration of justice in the cases of persons questioned, for any acts done by them, in the execution of the law, or for the suppression of riots and tumults in the province of Massachusetts Bay."

By this act persons informed against, or indicted for any act done, for the support of the laws of the

revenue, or for the suppression of riots in Massachusetts, might, by the governor, with the advice of the council, be sent for trial to any other colony or to Great Britain.

These bills, however, did not pass without opposition in both houses. Col. Barré addressed the Ministry on the last bill in his bold and energetic language.

OLIVE BRANCH OR SWORD?

COL. ISAAC BARRÉ

"You have changed your ground. You are becoming the aggressors," he said, "and offering the last of human outrages to the people of America by subjecting them to military execution. Instead of sending them the olive branch you have sent the naked sword. By the olive branch I mean a repeal of all the late laws, fruitless to you and oppressive to them. Ask their aid in a constitutional manner and they will give it to the utmost of their ability. They never yet refused it when properly required. Your journals bear the recorded acknowledgments of the zeal with which they have contributed to the general necessities of the state. What madness is it that prompts you to attempt obtaining that by force which you may more certainly procure by requisition. They may be flattered into anything, but they are too much like yourselves to be driven. Have some indulgence for your own likeness; respect their sturdy English virtue; retract your odious exertions of authority; and remember that the first step toward making them contribute to your wants is to reconcile them to your government."

COLONIAL OPPOSITION TO THE PORT BILL

General Thomas Gage was appointed governor of Massachusetts. He arrived there about the middle of May, and was politely received by the inhabitants of Boston. The Port Bill came over at the same time, and a meeting of the people of Boston was immediately held to take it into consideration.

They resolved, among other things, "that the *impolicy, injustice, inhumanity, and cruelty* of the act exceed all their powers of expression; and therefore we leave it to the censure of others, and appeal to *God and the world.*"

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That a meeting of the committees from the several colonies on this continent is highly expedient and necessary to consult upon the present state of the colonies, and the miseries to which they are and must be reduced by the operation of certain acts of Parliament, respecting America; and to deliberate and determine upon proper measures, to be by them recommended to all the colonies, for the recovery and establishment of their just rights and liberties, civil and religious, and the restoration of that union and harmony, between Great Britain and the colonies, most ardently desired by all good men.

The house immediately appointed a committee of five, Thomas Cushing, Samuel Adams, Robert Treat Paine, James Bowdoin and John Adams, to meet similar delegates from the other colonies at Philadelphia, or any other suitable place, on the first of the succeeding September. The governor, having obtained information of what was going on in the house, sent his secretary to dissolve the assembly, but finding the doors closed he was obliged to read his proclamation on the steps leading to the chamber where the representatives were convened for the last time under royal authority. The members did not disperse until they had finished their important business.

The expediency and even the necessity of a general congress and a more intimate union of the colonies was perceived by all, and in the course of the summer delegates were appointed either by the regular assemblies or by conventions of the people in all the colonies except Georgia to attend a congress to be held in Philadelphia in September.

RESOLUTIONS OF VIRGINIA

The convention of Virginia, composed of deputies from all parts of the colony, met on the first of August. It not only appointed some of her distinguished citizens to attend this congress, but entered into a number of resolutions, and formed an association in which they engaged after the first day of November, 1774, that they would not import from Great Britain any goods whatever (medicines excepted) or from any other place any British manufactures, or any article which should

They also declared it as their opinion that, "if the other colonies come into a joint resolution to stop all importation from, and exportation to, Great Britain and every part of the West Indies, till the act be repealed, the same would prove the salvation of North America and her liberties."

These resolutions, with the act itself, were immediately circulated through the colonies; and the severe interdict against the people of Boston excited universal indignation throughout America. In various ways the other colonies expressed their sympathies, sending their suffering neighbors provisions and money, and passing resolutions condemning their persecution.

The House of Burgesses in Virginia, being in session, appointed the first of June, the day the port of Boston was to be shut, as a day of "fasting, humiliation, and prayer, devoutly to implore the divine interposition for averting the heavy calamity which threatened destruction to their civil rights and the evils of a civil war; to give them *one heart and one mind* to oppose by all just and proper means every injury to American rights."

During an after-meeting of the Assembly, George Washington stated that he was ready at his own expense to raise one thousand men and march to the relief of Boston.

THE CALL FOR A COLONIAL CONGRESS

The advantage of committees of correspondence was perceived on this occasion. The patriotic Virginians recommended to their committee to correspond with the committees of the other colonies on the expediency of appointing representatives from all the colonies to meet annually in a general congress to deliberate on those measures which the united interests of America might from time to time require.

The Assembly of Massachusetts met on the last of May, and the new governor, after negating thirteen of the councillors, adjourned the assembly to meet at Salem on the 7th of June.

Soon after their meeting at this place the House of Representatives, on motion of Samuel Adams, resolved:

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have been brought into such place from Great Britain; and that if, before the 10th of August, 1775, American grievances should not be redressed, they would not after that day export tobacco or any other article to that country.

To this convention Thomas Jefferson submitted instructions to the delegates to the Continental Congress, maintaining that the Parliament of Virginia had as much right to pass laws for the government of England as the British Parliament had to pass laws for the government of Virginia. These instructions, though not adopted, were published in a pamphlet which Edmund Burke reprinted with amendments and additions of his own and circulated throughout England. They procured for Jefferson, to use his own words, "the honor of having his name inserted in a long list of proscriptions enrolled in a bill of attainder."

Though many influential colonists, among them John Dickinson, were still desirous of a reconciliation with the parent country on terms mutually advantageous, many of the leading and intelligent patriots of Massachusetts were now convinced that force must decide the contest. John Adams held this opinion. In conversing with Samuel Adams immediately after their appointment to the general congress he said:

"I suppose we must go to Philadelphia and enter into non-importation, non-consumption, and non-exportation agreements; but they will be of no avail; we shall have to resist by force."

While the people of Boston were suffering from the loss of their commerce the act depriving them of their charter rights arrived. To this act the people determined never to submit. As a result of their menacing attitude the royal councillors were obliged either to resign or seek protection in Boston. The grand and petit jurors, when summoned to attend the courts under the new order of things, refused to take the oaths required or to act. In some of the counties the people would not permit the courts to be held by unconstitutional judges. They assembled on the days of the session of the courts in such numbers as to fill the avenues

to the court houses, and when the sheriffs commanded them to give place for the judges they refused, declaring "that they knew of no court, nor any other establish-



THE ABLE DOCTOR, OR AMERICA SWALLOWING THE BITTER DRAUGHT

ment, independent of the ancient laws and usages of their country, and to none other would they submit or give way on any account."

THE FIRST CONTINENTAL CONGRESS

On September 1, 1774, the delegates to the general congress convened at Philadelphia. A committee was appointed to state the rights of the colonies in general, the several instances in which those rights had been violated, and the means most proper to be pursued for obtaining a restoration of them. In regard to the action of General Gage in raising fortifications around Boston and in preventing a free communication with that town the congress not only addressed a letter to the general requesting him to discontinue such fortifications, but also passed a resolution approving of the opposition of the inhabitants of Massachusetts to the execution of the late acts of Parliament, and declaring that, "if the same shall be attempted to be carried into execution *by force*,

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lish statutes as existed at the time of their colonization; and which they have, by experience, respectively found to be applicable to their several local and other circumstances.

7. That these, His Majesty's colonies, are likewise entitled to all the immunities and privileges granted and confirmed to them by royal charters, or secured by their several codes of provincial laws.

8. That they have a right peaceably to assemble, consider of their grievances, and petition the King; and that all prosecutions, prohibitory proclamations, and commitments for the same are illegal.

9. That the keeping a standing army in these colonies in times of peace without the consent of the legislature of that colony in which such army is kept is against law.

10. It is indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be independent of each other; that, therefore, the exercise of legislative power in several colonies, by a council appointed during pleasure by the Crown, is unconstitutional, dangerous, and destructive to the freedom of American legislation.

All and each of which the aforesaid deputies, in behalf of themselves and their constituents, do claim, demand, and insist on as their indubitable rights and liberties; which cannot be legally taken from them, altered or abridged by any power whatever without their consent by their representatives in their several provincial legislatures.

Then after enumerating the various acts of Parliament which were violations of their rights they proceeded to say:

To these grievous acts and measures America cannot submit; but, in hopes their fellow subjects in Great Britain will on a revision of them restore us to that state in which both countries found happiness and prosperity, we have for the present only resolved to pursue the following peaceable measures: 1. To enter into a non-importation association. 2. To prepare an address to the people of Great Britain, and a memorial to the inhabitants of British America; and, 3. To prepare a loyal address to His Majesty, agreeably to resolutions already entered into.

The articles relating to American rights received the unanimous assent of Congress with the exception of the fourth.

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in such case all America ought to support them in their opposition."

On the 14th of October the members of this congress with unexampled unanimity declared:

That the inhabitants of the English colonies in North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following rights:

1. That they are entitled to life, liberty, and property; and they have never ceded to any foreign power whatever a right to dispose of either without their consent.

2. That our ancestors, who first settled these colonies, were, at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural born subjects within the realm of England.

3. That by such emigration they by no means forfeited, surrendered, or lost any of those rights, but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them as their local and other circumstances enable them to exercise and enjoy.

4. That the foundation of English liberty and of all free governments is a right in the people to participate in their legislative council; and, as the English colonists are not represented, and from their local and other circumstances cannot properly be represented in the British Parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved in all cases of taxation and internal policy, subject only to the negative of their sovereign in such manner as has been heretofore used and accustomed. But, from the necessity of the case and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British Parliament as are, *bona fide*, restrained to the regulation of our external commerce for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation internal or external for raising a revenue on the subjects in America without their consent.

5. That the respective colonies are entitled to the common law of England, and, more especially, to the great and inestimable privilege of being tried by their peers of the vicinity according to the course of that law.

6. That they are entitled to the benefit of such of the Eng-

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This article produced no little debate, and on the last clause of it perfect unanimity did not prevail. The delegates from Massachusetts had been too much engaged in the controversy with Governor Hutchinson on the great question of parliamentary power to agree to this qualifying clause. This contest had satisfied them that it was difficult, if not impossible, to draw a satisfactory line between a duty laid for the regulation of commerce and for revenue.

A non-importation agreement was signed by all the members of this Congress including a pledge not to use any of the prohibited goods nor to consume any tea upon which duty had been paid.

In case the acts complained of should not be repealed by the 10th day of September, 1775, they agreed not to export to Great Britain, Ireland, or the West Indies any commodities or merchandise whatever, although they would continue sending rice to Europe.

The following was said in conclusion:

And we do solemnly bind ourselves and our constituents, under the ties aforesaid, to adhere to this association until such parts of the several acts of Parliament [objected to] are repealed. And we recommend it to the provincial conventions, and to the committees in the respective colonies, to establish such farther regulations as they may think proper for carrying into execution this association.

Lord Chatham, in referring to this celebrated convention, declared that though he had studied and admired the free states of antiquity, the master spirits of the world, "yet for solidity of reasoning, force of sagacity, and wisdom of conclusion, no body of men could stand in preference to this congress."

PATRICK HENRY'S ELOQUENCE

The loss of Patrick Henry's speech at the opening of the Congress is especially deplorable, as it was the one which gave him national reputation. An account of its deliverance however has fortunately been preserved.

"Mr. Henry rose slowly, as if borne down by the weight of the subject, and, after faltering, according to his habit, through a most impressive exordium, he launched gradually into a recital of the colonial wrongs. Rising, as he advanced, with the grandeur of his subject, and glowing at length with all the majesty and expectation of the occasion, his speech seemed more than that of mortal man. There was no rant, no rhapsody, no labor of the understanding, no straining of the voice, no confusion of the utterance. His countenance was erect, his eye steady, his action noble, his enunciation clear and firm, his mind poised on its center, his views of his subject comprehensive and great, and his imagination coruscating with a magnificence and a variety which struck even that assembly with amazement and awe. He sat down amid murmurs of astonishment and applause; and as he had been before proclaimed the greatest orator of Virginia, he was now, on every hand, admitted to be the first orator of America."

The speech was on the method of voting in the congress, whether it should be by colonies, by the poll of delegates, or by the various interests represented. The first method was adopted against the opposition of Henry. A fragment of his speech remains. It is the first breathing of the national spirit which would disregard State lines where national interests are at stake.

"NOT A VIRGINIAN, BUT AN AMERICAN"

PATRICK HENRY

"Fleets and armies and the present state of things show that the government is dissolved. Where are your landmarks—your boundaries of colonies? We are in a state of nature! All distinctions are thrown down; all America is thrown into one mass. The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders are no more. I am not a Virginian, but an American."

GALLOWAY'S PLAN OF UNION

Henry's vehement opposition later in the session to a plan of union of the colonies proposed by Joseph Galloway, a wealthy lawyer of Philadelphia, and advocated by John Jay, Edward Rutledge, and other con-

In conclusion, referring to the ministerial proceedings toward the colonies, they say: "But if you are determined that your ministers shall wantonly sport with the rights of mankind—if neither the voice of justice, the dictates of the law, the principles of the constitution, nor the suggestions of humanity, can restrain your hands from shedding human blood in such an impious cause, we must then tell you that we will never submit to be hewers of wood or drawers of water for any ministry or nation in the world.

"Place us in the same situation that we were at the close of the late war and our former harmony will be restored.

"But, lest the same supineness, and the same inattention to our common interest which you have for several years shown should continue, we think it necessary to anticipate the consequences.

"By the destruction of the trade of Boston the ministry have endeavored to induce submission to their measures. The like fate may befall us all. We will endeavor, therefore, to live without trade, and recur for subsistence to the fertility and bounty of our native soil, which will afford us all the necessities and some of the conveniences of life. We have suspended our importation from Great Britain and Ireland; and in less than a year's time, unless our grievances should be redressed, shall discontinue our exports to those kingdoms and the West Indies.

"It is with the utmost regret, however, that we find ourselves compelled, by the over-ruling principles of self-preservation, to adopt measures detrimental in their consequences to numbers of our fellow subjects in Great Britain and Ireland. But we hope the magnanimity and justice of the British nation will furnish a Parliament of such wisdom, independence, and public spirit as may save the violated rights of the whole empire from the devices of wicked ministers and evil counselors, whether in or out of office, and thereby restore that harmony, friendship, and fraternal affection between all the inhabitants of His Majesty's kingdoms and territories so ardently wished for by every true and honest American."

This address was prepared by John Jay of New York. Thomas Jefferson, while ignorant of the authorship of the address, said it was "a production certainly of the finest pen in America."

servatives, was probably instrumental in defeating it, as the vote was very close. The plan was similar to Franklin's Albany Plan of Union, proposed in 1754. It provided for a President-General, appointed by the Crown, and a grand council of representatives to be chosen by the colonial assemblies and to meet annually. The council was to have sole charge of internal colonial affairs, its other acts being subject to review by Parliament, although it in turn would have the right of veto over acts of Parliament relating to the colonies. Henry objected to the plan as a recognition of Parliament's right to rule the colonies, which he emphatically denied. Galloway afterwards justified the suspicion that he was secretly acting in the interests of Great Britain by turning Tory.

ADDRESS TO THE BRITISH PEOPLE

In their address to the people of Great Britain, after enumerating the several acts of Parliament deemed violations of their rights, they appeal to the generosity, to the virtue, to the justice of the nation, for relief. They not only remind the people of the parent country of the immense benefits they had heretofore derived from a monopoly of colonial commerce, but call upon them to witness the loyalty and attachment of the colonists to the common interest of the empire.

"Did we not," they ask, "in the last war, add all the strength of this vast continent to the force which repelled our common enemy? Did we not leave our native shores and meet disease and death to promote the success of British arms in foreign climates? Did you not thank us for our zeal; and even reimburse us large sums of money, which, you confessed, we had advanced beyond our proportion, and far beyond our ability?"

After these appeals they repel the charges brought against them. "You have been told that we are seditious, impatient of government, and desirous of independency. Be assured," they said, "that these are not facts, but calumnies. Permit us to be as free as ourselves, and we shall ever esteem a union with you to be our greatest glory and our greatest happiness; we shall ever be ready to contribute all in our power to the welfare of the whole empire; we shall consider your enemies as our enemies, and your interest as our own."

ADDRESS TO THE KING

The address to the King breathed a spirit of affection as well as loyalty. Nor did it contain the language of hypocrisy. They tell their sovereign their grievances and ask redress.

"Had our Creator," they say, "been pleased to give us existence in a land of slavery, the sense of our condition might have been mitigated by ignorance and habit. But, thanks be to His adorable goodness, we were born the heirs of freedom, and ever enjoyed our right under the auspices of your royal ancestors whose family was settled on the British throne to rescue and secure a pious and gallant nation from the popery and despotism of a superstitious and inexorable tyrant. Your Majesty, we are confident, justly rejoices that your title to the crown is thus founded on the title of your people to liberty; and, therefore, we doubt not but your royal wisdom must approve the sensibility that teaches your subjects anxiously to guard the blessing they received from divine Providence, and thereby to prove the performance of that compact which elevated the illustrious house of Brunswick to the imperial dignity it now possesses.

"The apprehension of being degraded into a state of servitude, from the preëminent rank of English freemen, while our minds retain the strongest love of liberty and clearly foresee the miseries preparing for us and our posterity, excites emotions in our breasts which, though we cannot describe, we should not wish to conceal. Feeling as men, and thinking as subjects, in the manner we do, silence would be disloyalty. By giving this faithful information we do all in our power to promote the great objects of your royal cares, the tranquillity of your government, and the welfare of your people.

"Duty to Your Majesty and regard for the preservation of ourselves and our posterity, the primary obligations of nature and society, command us to entreat your royal attention; and, as Your Majesty enjoys the signal distinction of reigning over freemen, we apprehend the language of freemen cannot be displeasing. Your royal indignation, we hope, will rather fall on those designing and dangerous men who, daringly interposing themselves between your royal person and your faithful subjects, and for several years past incessantly employed to dissolve the bonds of society by abusing Your Majesty's authority, misrepresenting your American subjects, and prosecuting the most

desperate and irritating projects of oppression, have, at length, compelled us, by the force of accumulated injuries, too severe to be any longer tolerable, to disturb Your Majesty's repose by our complaints.

"These sentiments are extorted from hearts that much more willingly would bleed in Your Majesty's service. Yet so greatly have we been misrepresented that a necessity has been alleged of taking our property from us without our consent, 'to defray the charge of the administration of justice, the support of civil government, and the defence, protection, and security of the colonies.' But we beg leave to assure Your Majesty that such provision has been, and will be, made for defraying the two first articles as has been and shall be judged by the legislatures of the several colonies just and suitable to their respective circumstances: and for the defence, protection, and security of the colonies, their militia, if properly regulated, as they earnestly desire may immediately be done, would be fully sufficient, at least in time of peace; and, in case of war, your faithful colonists will be ready and willing, as they ever have been, when constitutionally required, to demonstrate their loyalty to Your Majesty by exerting their most strenuous efforts in granting supplies and raising forces. Yielding to no British subjects in affectionate attachment to Your Majesty's person, family, and government, we too dearly prize the privilege of expressing that attachment by those proofs that are honorable to the prince who receives them, and to the people who give them, ever to resign it to any body of men upon earth.

"Had we been permitted to enjoy in quiet the inheritance left us by our forefathers, we should at this time have been peaceably, cheerfully, and usefully employed in recommending ourselves, by every testimony of devotion, to Your Majesty, and of veneration to the state from which we derive our origin. But, though now exposed to unexpected and unnatural scenes of distress by a contention with that nation in whose parental guidance on all important affairs we have hitherto with filial reverence constantly trusted, and, therefore, can derive no instruction in our present unhappy and perplexing circumstances from any former experience, yet we doubt not the purity of our intention and the integrity of our conduct will justify us at that grand tribunal before which all mankind must submit to judgment.

"We ask but for peace, liberty, and safety. We wish not a diminution of the prerogative, nor do we solicit the grant of any new right in our favor. Your royal authority over us, and

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The "Petition to the King" was written by John Dickinson. It was highly praised by Lord Chatham and others, one of whom said that "it will remain an imperishable monument to the glory of its author and of the assembly of which he was a member so long as fervid and manly eloquence and chaste and elegant composition shall be appreciated."

Congress also delivered an "Address to the Inhabitants of Quebec," in which they endeavored to convince them that a late act of Parliament respecting that province had deprived them of many of their rights and privileges, and to persuade them to unite in obtaining redress, and to join the confederacy.

After directing the Address to the King to be sent to the several colony agents in England to be presented to His Majesty, and recommending that another Congress be held on the 10th of May following, unless a redress of grievances should before that time be obtained, Congress, on the 26th of October, dissolved.

EFFECT OF THE CONGRESS

The proceedings of the Congress met with the almost unanimous approbation of the people of America. The non-importation agreement entered into by their delegates was adopted as their own. Committees of vigilance were appointed in all the towns and districts, and the names of those who disregarded it were published as the enemies of public liberty.

The various colonial assemblies and, where these could not convene owing to the opposition of the governors, special provincial conventions endorsed the proceedings of the general Congress. In Massachusetts such a provincial convention took measures to put the colony in a state of defence, and sent Josiah Quincy, Jr., to England to confer with the English Whigs.

A majority of the members of this Congress had little doubt that the measure taken by them, if supported by the American people, would produce a redress of grievances.

George Washington was of opinion that with the aid

our connection with Great Britain we shall always carefully and zealously endeavor to support and maintain.

"Filled with sentiments of duty to Your Majesty, and of affection to our parent state, deeply impressed by our education and strongly confirmed by our reason, and anxious to evince the sincerity of these dispositions, we present this petition only to obtain redress of grievances and relief from fears and jealousies occasioned by the system of statutes and regulations adopted since the close of the late war, . . . by the abolition of which system the harmony between Great Britain and these colonies (so necessary to the happiness of both, and so ardently desired by the latter), and the usual intercourse will be immediately restored. In the magnanimity and justice of Your Majesty and Parliament we confide for a redress of our other grievances, trusting that, when the causes of our apprehensions are removed, our future conduct will prove us not unworthy of the regard we have been accustomed to enjoy. In appealing to that Being who searches thoroughly the hearts of His creatures, we solemnly profess that our councils have been influenced by no other motive than a dread of impending destruction.

"Permit us, then, most gracious sovereign, in the name of all your faithful people in America, with the utmost humility, to implore you, for the honor of Almighty God, whose pure religion our enemies are undermining; for your glory, which can be advanced only by rendering your subjects happy and keeping them united; for the interests of your family, depending on an adherence to the principles that enthroned it; for the safety and welfare of your kingdoms and dominions, threatened with almost unavoidable dangers and distresses, that Your Majesty, as the loving father of your whole people, connected by the same bonds of law, loyalty, faith, and blood, though dwelling in various countries, will not suffer the transcendent relation formed by these ties to be further violated, in uncertain expectations of effects that, if obtained, never can compensate for the calamities through which they must be gained.

"We, therefore, most earnestly beseech Your Majesty that your royal authority and interposition may be used for our relief, and that a gracious answer may be given to this petition.

"That Your Majesty may enjoy every felicity, through a long and glorious reign, over loyal and happy subjects, and that your descendants may inherit your prosperity and dominions till time shall be no more, is, and always will be, our sincere and fervent prayer."

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of both the non-importation and non-exportation system America would prevail. Richard Henry Lee said to John Adams, "We shall undoubtedly carry all our points. You will be completely relieved; all the offensive acts will be repealed; the army and fleet will be recalled, and Britain will give up her foolish projects."

Adams, however, together with his cousin Samuel, and Patrick Henry were not so sanguine, believing that the contest must ultimately be decided by force. It was with this conviction that John Adams said to a friend, on being elected as a delegate to the Congress: "As to my fate the die is cast, the Rubicon is passed—and sink or swim, live or die, to survive or perish with my country is my unalterable resolution."¹

¹ Compare the "Supposed Speech of John Adams," by Daniel Webster, on page 194.

CHAPTER IV

FORCE OR CONCILIATION?

Lord Chatham Moves That the Troops Be Withdrawn from Boston. His Speech on the Motion. He Is Supported by Lords Camden and Shelburne and the Marquis of Buckingham. The Measure Is Defeated—Chatham Presents a Plan of Conciliation. His Tilt with Lord Sandwich over the Character of Benjamin Franklin—British Petitions in Behalf of America Are "Shelved," and Asia to "Crush Rebellion" Are Adopted—Franklin's Proposals for Reconciliation—Conciliatory Plan of Lord North—Edmund Burke on "Conciliation with America." His Resolutions Are Defeated—His Speech on "The Right to Tax America."

A NEW Parliament met on the 20th day of November, 1774. The King informed Parliament that a most daring resistance and disobedience to the law still prevailed in Massachusetts and had broken out in fresh violence; that these proceedings had been countenanced and encouraged in the other colonies, and that unwarrantable attempts had been made to obstruct the commerce of the kingdom by unlawful combinations, and he expressed his firm determination to withstand every attempt to weaken or impair the supreme authority of Parliament over all the dominions of the Crown.

Addresses in answer to the speech concurring in the sentiments expressed by the King were carried in both houses by large majorities. A committee was appointed to take the subject of colonial affairs into consideration.

Josiah Quincy, Jr., not long after his arrival in England, had an interview with Lord North as well as Lord Dartmouth at their special request.

The former, on the 19th of November, in conversation on the subject of American affairs, reminded Mr. Quincy of the power of Great Britain and that they were determined "to exert it to the utmost in order to effect the submission of the colonies."

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This motion was supported by one of the most eloquent and impressive speeches ever delivered by that distinguished statesman and orator.

ON REMOVING THE TROOPS FROM BOSTON

LORD CHATHAM

"My Lords, these papers from America, now laid by administration for the first time before your lordships, have been, to my knowledge, five or six weeks in the pocket of the minister. And, notwithstanding the fate of this kingdom hangs upon the event of this great controversy, we are but this moment called to a consideration of this important subject.

"My Lords, I do not wish to look into one of these papers. I know their contents well enough already. I know that there is not a member in this house but is acquainted with their purport, also. There ought, therefore, to be no delay in entering upon this matter. We ought to proceed to it immediately. We ought to seize the first moment to open the door of reconciliation. The Americans will never be in a temper or state to be reconciled—they ought not to be—till the troops are withdrawn. The troops are a perpetual irritation to those people; they are a bar to all confidence and all cordial reconciliation.

"The way must be immediately opened for reconciliation. It will soon be too late. I know not who advised the present measures; I know not who advises to a perseverance and enforcement of them; but this I will say, that whoever advises them ought to answer for it at his utmost peril. I know that no one will avow that he advised or that he was the author of these measures; every one shrinks from the charge. But somebody has advised His Majesty to these measures, and, if he continues to hear such evil counselors, His Majesty will be undone. His Majesty may indeed wear his crown, but, the American jewel out of it, it will not be worth the wearing. What more shall I say? I must not say the king is betrayed; but this I will say, the nation is ruined. What foundation have we for our claims over America? What is our right to persist in such cruel and vindictive measures against that loyal, respectable people?

"They say, you have no right to tax them without their consent. They say truly. Representation and taxation must go together; they are inseparable. Yet there is scarcely a man in our streets, though as poor as woe-worms to be able to get his daily bread, but thinks he is the legislator of America. 'Our American

"We must try," said he, "what we can do to support the authority we claim over America. If we are defective in power, we must sit down contented and make the best terms we can; and nobody can blame us after we have done our utmost; but till we have tried what we can do, we can never be justified in receding."

Mr. Quincy from this conversation with the Prime Minister, as well as information obtained from other sources, was convinced that the Americans had nothing to hope but from forcible resistance, and communicated this conviction to some of his particular friends in America.

In a letter to Joseph Reed of Philadelphia of the 17th of December he says:

"But by no means entertain an idea that commercial plans, founded on commercial principles, are to be engines of your freedom or the security of your felicity.

"Far different are the weapons with which oppression is repelled; far more noble the sentiments and actions which secure liberty and happiness to man.

"I cannot forbear telling you that I look to my countrymen with the feelings of one who verily believes they must yet seal their faith and constancy to their liberties with blood."

CHATHAM'S MOTION TO REMOVE THE TROOPS

Parliament, after the holiday recess, convened on the 20th of January, and on the same day Lord Chatham took his seat in the House of Lords and immediately moved:

"That, in order to open the way toward our happy settlement of the dangerous troubles in America by beginning to allay ferments and soften animosities there, and, above all, for preventing in the meantime any sudden and fatal catastrophe at Boston, now suffering under daily irritation of an army before their eyes posted in their town, it may graciously please His Majesty that immediate orders may be dispatched to General Gage for removing His Majesty's forces from the town of Boston."

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subjects' is a common phrase in the mouths of the lowest orders of our citizens; but property, my lords, is the sole and entire dominion of the owner; it excludes all the world besides the owner. None can intermeddle with it. It is an unity, a mathematical point. It is an atom; untangible by any but the proprietor. Touch it, and the owner loses his whole property. The touch contaminates the whole mass, the whole property vanishes. The touch of another annihilates it; for whatever is a man's own is absolutely and exclusively his own.

After stating that the Americans had been abused, misrepresented and traduced in the most atrocious manner in order to give color to and urge on the most precipitate, unjust, cruel, and vindictive measures that ever disgraced a nation, he asks:

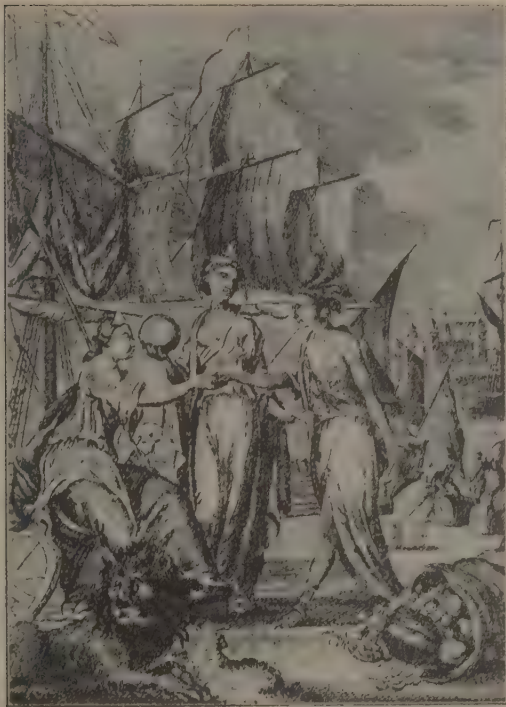
"But how have this respectable people behaved under their grievances? With unexampled patience, with unparalleled wisdom. They chose delegates by their free suffrages; no bribery, no corruption, no influence there, my Lords. Their representatives meet with the sentiments and temper and speak the sense of the continent. For genuine sagacity, for singular moderation, for solid wisdom, manly spirit, sublime sentiments, and simplicity of language, for everything respectable and honorable, the Congress of Philadelphia shine unrivaled. This wise people speak out. They do not hold the language of slaves; they tell you what they mean. They do not ask you to repeal your laws as a *favor*; they claim it as a *right*—they demand it. They tell you they will not submit to them; and I tell you, the acts must be repealed; they *will* be repealed; you cannot enforce them. The ministry are checkmated; they have a move to make on the board; yet not a move but they are ruined. Repeal, therefore, my Lords, I say. But bare repeal will not satisfy this enlightened and spirited people. What! repeal a bit of paper! repeal a piece of parchment! That alone will not do, my lords. You must go through the work—you must declare you have no right to tax—then they may trust you; then they will have some confidence in you."

After adverting to the distinction he had formerly made, in the debate on the repeal of the Stamp Act, between taxation and legislation (see page 41) Lord Chatham thus concludes:

"My Lords, deeply impressed with the importance of taking some healing measures at this most alarming, distracted state of our affairs, though bowed down with a cruel disease, I have crawled to this House to give you my best counsel and experience; and my advice is to beseech His Majesty to withdraw his troops. This is the best I can think of. It will convince America that you mean to try her cause in the spirit and by the laws of freedom and fair enquiry, and not by codes of blood. How can she now trust you with the bayonet at her breast? She has all the reason in the world now to believe you mean her death or bondage. Thus entered on the threshold of this business, I will knock at your gates for justice without ceasing, unless inveterate infirmities stay my hand. My Lords, I pledge myself never to leave this business. I will pursue it to the end in every shape. I will never fail of my attendance on it, at every step and period of this great matter, unless nailed down to my bed by the severity of disease. My Lords, there is no time to be lost; every moment is big with dangers. Nay, while I am now speaking the decisive blow may be struck and millions involved in the consequences. The very first drop of blood will make a wound that will not easily be skinned over. Years, perhaps ages, may not heal it. It will be *immedicabile vulnus*: a wound of that rancorous, malignant, corroding, festering nature which in all probability will mortify the whole body. Let us then, my Lords, set to this business in earnest! Not take it up by bits and scraps as formerly, just as exigencies pressed, without any regard to general relations, connections, and dependencies. I would not, by anything I have said, my lords, be thought to encourage America to proceed beyond the right line. I reprobate all acts of violence by her mobility.¹ But when her inherent constitutional rights are invaded, those rights she has an equitable claim to enjoy by the fundamental laws of the English constitution, and which are engrafted thereon by the unalterable laws of nature; then I own myself an American, and, feeling myself such, shall, to the verge of my life, vindicate those rights against all men who strive to trample upon or oppose them."

The motion of Lord Chatham, though supported by Lord Camden, Lord Shelburne, and the Marquis of Rockingham, was rejected by a large majority. The ministers, being now prepared to announce their determination to coerce obedience to the late acts of Par-

¹ I. e., the common people; a word humorously coined from "mob" as an antonym for "nobility."



Frontispiece in the "London Magazine."

CONCILIATION

BRITAIN, AMERICA, at length be Friends,
Accept the terms which CONCORD recommends!
Be ye but Steady to each other's Cause,
Protect, defend, and not infringe the Laws;
Ye may together—come the World in Arms,
Bear the brunt Shock of hostile, dire alarms.
'Tis Peace, Trade, Navigation, will support
The poor with bread—in Dignity the Court.
Rush to each other's Arms, be firm and true;
One Faith, one Fame, one Intrest, makes the Two.

liament, refused to listen to the prophetic voice of this experienced statesman. This, however, did not prevent him from presenting to the House soon after a bill containing his favorite plan "for settling the troubles, and for asserting the supreme legislative authority and superintending power of Great Britain over the colonies."

CHATHAM'S PLAN OF CONCILIATION

The great outlines of this plan were in the first place a general declaration that the colonies of America were dependent on the imperial Crown of Great Britain and subordinate to the British Parliament, and that Parliament could make laws binding on them in all cases touching the general weal of the British empire; the bill then enacted that Parliament could lay no tax or tallage without common consent by an act of an American provincial assembly duly convened for that purpose.

It provided that a general congress be held in America to recognize such general superintending authority in Parliament; and that such congress be requested to take into consideration the making a free grant to the King, and his successors, of a certain *permanent revenue*, subject to the disposition of Parliament, to the alleviation of the national debt. That the same congress apportion the quotas of this revenue to each province. That the vice-admiralty courts be reduced to their ancient limits—that no person be sent to Great Britain for crimes committed in America—that the acts complained of, passed since 1763, be suspended—that the judges hold their offices during good behavior, and have their salaries from the Crown; and the bill also declared that the colonies were justly entitled to the privileges and franchises granted by their charters or constitutions, and that these charters could not be invaded or rescinded, unless for some legal ground of forfeiture. It asserted the right of the King to send a legal army to any part of his dominions; but that no military force could lawfully be used to destroy the just rights of the people.

Though this bill, as it contained a direct avowal of the *supreme authority* of Parliament over the colonies in all cases except that of taxation, could never have received the assent of the Americans, yet, as it ex-

pressly denied the parliamentary power of taxing the colonies without the consent of their assemblies, and made other concessions, it was rejected by a large majority on its first reading.

Lord Chatham had shown this bill to Dr. Benjamin Franklin before he submitted it to the House of Lords, but the latter had not an opportunity of proposing certain alterations which he had sketched. Dr. Franklin, however, at the special request of Lord Chatham, was present at the debates upon it.

Lord Dartmouth was at first disposed to have the bill lie upon the table, but Lord Sandwich opposed its being received and moved that it be immediately "rejected with the contempt it deserved. He could never believe," he said, "that it was the production of a British peer; that it appeared to him rather the work of some American." Turning his face toward Dr. Franklin, then standing at the bar, "he fancied," he said, "he had in his eye the person who drew it up, one of the bitterest and most mischievous enemies this country had ever known."

To this part of the speech of Lord Sandwich Chatham replied by saying "that it was entirely his own."

"This declaration," he said, "he thought himself the more obliged to make, as many of their lordships appeared to have so mean an opinion of it; for if it was so weak or so bad a thing, it was proper in him to take care that no other person should unjustly share in the censure it deserved. That it had been heretofore reckoned his vice not to be apt to take advice; but he made no scruple to declare that, if he were the first minister of this country, and had the care of settling this momentous business, he should not be ashamed of publicly calling to his assistance a person so perfectly acquainted with the whole of American affairs as the gentleman alluded to and so injuriously reflected on; one whom all Europe held in estimation for his knowledge and wisdom, and who ranked with our Boyles and Newtons; who was an honor, not to the English nation only, but to human nature."

PETITIONS IN FAVOR OF AMERICA SHELVED

Soon after the meeting of Parliament in January petitions from the merchants of London and other trading towns in favor of America were presented to the House of Commons. These petitions, instead of being referred, as the petitioners expected, to the committee on American affairs, were, on motion of the minister, referred to another committee whose meeting was fixed at a more distant day. This was considered by the petitioners as very unfair treatment, and the committee to which their petitions were referred was called the "*committee of oblivion*." The petition of the American congress to the King had been sent to the house with other papers, but had been left entirely unnoticed. Dr. Franklin, Mr. Bolland, and Arthur Lee, colonial agents, to whom it had been entrusted, requested liberty to be heard upon it before the house. This, however, was refused, the ministers giving the old reason that it came from an illegal assembly. Thus the humble supplication of three millions of people could not be heard unless presented in a particular manner.

ACTS TO "CRUSH REBELLION"

Immediately after the rejection of Lord Chatham's bill the minister proposed in the House of Commons a joint address to the King on American affairs. In this address, which was carried by large majorities, Parliament declared that Massachusetts was in a state of rebellion, and that this colony had been supported by unlawful combinations and engagements entered into by several of the other colonies to the great injury and oppression of His Majesty's subjects in Great Britain. Assuring His Majesty of their determination never to relinquish the sovereign authority of the King and Parliament over the colonies, they requested him to take the most effectual measures to enforce obedience to that authority, and promised him their support at the hazard of their lives and property. In the long and pointed debates on this address it was declared by

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proposed by the minister. An idea prevailed in Great Britain that the people of New England were dependent on the fisheries for subsistence, and that, deprived of these, they would be starved into obedience and submission.

FRANKLIN'S PROPOSAL FOR RECONCILIATION

During this period Dr. Fothergill and Mr. Barclay, both friends to America, had frequent conversations with Dr. Franklin, earnestly soliciting him to suggest some plan of reconciliation which might be submitted to the consideration of the Ministry. They urged that this might be done immediately before the breach was irreparable, as additional measures against the people of New England were at that time in contemplation.

About the first of December Dr. Franklin sketched and presented to them a plan which he called "Hints for conversation upon the subject of terms that might probably produce a durable union between Great Britain and the colonies."

The "hints" included, among other propositions, that the tea duty act and all acts restraining manufactures in the colonies be repealed, the royal garrisons be removed, and the recent act in regard to Massachusetts and Quebec be revoked. In return, the Navigation Acts to be all reenacted in the colonies.

To some of Franklin's propositions Mr. Barclay and Dr. Fothergill made strong objections.

Restraining manufactures in the colonies, they said, was a favorite idea in Great Britain, and would not easily be relinquished. Dr. Franklin, however, insisted on the justice of allowing all subjects in every country to make the most of their natural advantages, but at their earnest request he consented to change the word *repealed* to *reconsidered*.

With respect to sending or quartering troops in the colonies, this, they observed, would never be granted, as all would be of opinion that the King, who was to defend all parts of his dominions, had a right of course to place his troops where they might best answer that purpose. Dr. Franklin in support of his proposition

ministers and their supporters that the Americans had long wished to become independent, and only waited for ability and opportunity to accomplish their design. To prevent this, they said, and to crush the monster in its birth, was the duty of every Englishman, and this must be done at any price and at every hazard. In the course of the debates the Americans were branded with the epithets of cowards and paltrons, and some pretending to be well acquainted with their character declared them incapable of military discipline or exertion, and that a small force would reduce them to obedience.

Opposition to the address was made in both Houses, but in vain. The King in his answer assured Parliament of his firm determination in compliance with their request to enforce obedience to the laws and authority of the supreme legislature of the empire. His answer was followed by a message requesting an increase of his forces by sea and land. The restriction of the trade of the colonies and a prohibition of their use of the fisheries were also a part of the ministerial system of measures. The minister began this part of his system with Massachusetts, Connecticut, New Hampshire, and Rhode Island as being the most obstinate and refractory. On the 10th of February he presented a bill which soon became a law restricting the trade of these colonies to Great Britain, Ireland, and the British West Indies, and prohibiting their carrying on any fisheries on the banks of Newfoundland and other places for a limited time. The same restrictions were soon after extended to all the colonies represented in the Congress at Philadelphia, with the exception of New York and North Carolina. These bills were opposed by the minority in both houses as unjust and cruel toward the colonists, involving the innocent with the guilty; and unwise and impolitic in regard to the people of Great Britain. By the loss of their foreign trade and the fisheries the colonists, it was said, particularly those of New England, would be unable to pay the large balances due from them to the British merchants. But every argument, however just or reasonable, was urged in vain against the measures

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said that if the King could bring troops into the colonies without the consent of the colonial legislatures, he might also bring armies raised in America into England without consent of Parliament. If troops were necessary in America the consent of the local assemblies would no doubt always be obtained, and he refused to give up this article.

Strong objections, they said, would be made against repealing the late laws relating to Quebec and Massachusetts, the old colonists having nothing to do with Quebec, and the act altering the charter of Massachusetts being deemed by the Administration a valuable improvement in the government of that province. Dr. Franklin replied that the Americans had, at a great expense, assisted in the conquest of Canada, and therefore had a right to object to the establishment of an arbitrary government there.

"That as to amending the Massachusetts government," he told them, "though it might be shown that every one of these pretended amendments were real mischiefs, yet that charters being compacts between two parties, the King and the people, no alteration could be made in them, even for the better, but by the consent of both parties. That the Parliament's claim and exercise of a power to alter our charters, which had always been deemed inviolable but for forfeiture, and to alter laws made in pursuance of those charters which had received the royal approbation, and thenceforth were deemed fixed and unchangeable but by the powers that made them, had rendered all our constitutions uncertain, and set us quite afloat; that, as by claiming a right to tax us *ad libitum*, they deprived us of all property; so by this claim of altering our laws and charters at will they deprived us of all privilege and right whatever, but what we should hold at their pleasure; that this was a situation we could not be in, and must risk life and everything rather than submit to it."

The monopoly of the colonial commerce, it was said, could never be given up, and that any proposition of this kind would only give offence without producing any good. This article was therefore, at last, totally omitted.

The propositions were placed before the Ministry

and other gentlemen of influence in Parliament, and on the 4th of February, 1775, Dr. Fothergill and Mr. Barclay had an interview with Dr. Franklin on the subject. Mr. Barclay said there was a good disposition in the Administration toward the colonies, and hinted how much it was in the power of Dr. Franklin himself to promote an agreement, and that in such an event he might expect not only a restoration of his old place, but almost any other he might wish. To this Dr. Franklin replied that the Ministry, he was sure, would rather give him a *place* in a cart to Tyburn than any other place whatever.

The ministerial agents made counter propositions, to which Dr. Franklin replied that, as none of the late acts relating to the province of Massachusetts Bay were to be repealed, except the Boston Port Bill, "Massachusetts must suffer all the hazards and mischiefs of war rather than admit the alteration of their charters and laws by Parliament. They who can give up liberty to obtain a little temporary safety deserve neither liberty nor safety."

LORD NORTH'S PROPOSITION

Soon after the close of this negotiation and while Parliament were engaged in augmenting the military and naval force and declaring the colonists in a state of rebellion, Lord North, the Prime Minister, surprised both his political friends and enemies with a proposition called his *conciliatory plan* in relation to the colonies.

This proposition was submitted to the House of Commons by the minister on the 20th of February, 1775, and was finally adopted. It declared:

"That, when the Governor, Council and Assembly, or General Court of any of His Majesty's colonies in America shall propose to make provision, according to the condition, circumstances, and situation of such province or colony, for contributing their proportion for the common defence (such proportion to be raised under the authority of the General Court or Assembly of such colony and *disposable by Parliament*), and shall

leaving the *amount* and *application* to the colonial assemblies.

Mr. Burke's proposition, founded on expediency, was to permit the colonies to tax themselves in their assemblies according to ancient usage and to repeal all acts of Parliament imposing duties in America.

These propositions, though supported by all the eloquence and powerful talents of Mr. Burke, were rejected by the usual ministerial majorities.

In presenting his proposition, Mr. Burke made what has been considered the greatest of all his speeches, and one to which there are few equals in forensic oratory, whether of ancient or of modern times.

ON CONCILIATION WITH AMERICA

EDMUND BURKE

Mr. Speaker: As I came into the House full of anxiety about the event of my motion, I found, to my infinite surprise, that the grand penal bill,¹ by which we had passed sentence on the trade and sustenance of America, is to be returned to us from the other House. I do confess I could not help looking on this event as a fortunate omen. I look upon it as a sort of providential favor by which we are put once more in possession of our deliberative capacity upon a business so very questionable in its nature, so very uncertain in its issue. By the return of this bill, which seemed to have taken its flight forever, we are at this very instant nearly as free to choose a plan for our American government as we were on the first day of the session. If, sir, we incline to the side of conciliation we are not at all embarrassed (unless we please to make ourselves so) by any incongruous mixture of coercion and restraint. We are, therefore, called upon, as it were by a superior warning voice, again to attend to America; to attend to the whole of it together; and to review the subject with an unusual degree of care and calmness.

Here the speaker told of the exhaustive research he had made in American affairs since the proposition of the Stamp Act.

¹ The act to confine the commerce of New England to Great Britain, Ireland and the British West Indies.

engage to make provision, also, for the support of the civil government and the administration of justice in such colony, it will be proper, if such proposal shall be *approved by His Majesty* and the two Houses of Parliament, and for so long as such provision shall be made accordingly, to *forbear* in respect to such colony to levy any duty, tax or assessment, except only such duties as it may be expedient to levy or impose for the regulation of commerce; the net proceeds of the duties last mentioned to be carried to the account of such colony respectively."

This unexpected proposition was at first opposed by those who usually acted with the minister as totally inconsistent with the course of measures just adopted, and they would probably have voted against it had they not been quieted by explanations made by his particular friends as to its real object, which was to cause a division among the colonies; or, if this should not be the effect, and the reasonable terms offered should be rejected by them, to unite the people of England in strong coercive measures. The minister stated that it would be an infallible touch-stone to try the *sincerity* of the Americans. That he intended by it to separate the grain from the chaff. If rejected, "we shall then," he observed, "know how to act; after having shown our wisdom and our humanity by giving them an opportunity of redeeming their past faults, and holding out to them fitting terms of accommodation; if they reject them we shall stand justified in taking the most coercive measures, and they must be answerable to God and man for the consequences."

The adoption of Lord North's conciliatory scheme did not prevent David Hartley and Edmund Burke from presenting to the House their respective plans of reconciliation.

HARTLEY'S AND BURKE'S PROPOSITIONS

Mr. Hartley proposed that at the request of Parliament the secretary of state should require a contribution from the colonies for the general expense of the empire,

Sir, Parliament, having an enlarged view of objects, made during this interval more frequent changes in their sentiment and their conduct than could be justified in a particular person upon the contracted scale of private information. But, though I do not hazard anything approaching to a censure on the motives of former Parliaments to all those alterations, one fact is undoubted—that under them the state of America has been kept in continual agitation. Everything administered as remedy to the public complaint, if it did not produce, was at least followed by a heightening of the distemper; until, by a variety of experiments, that important country has been brought into her present situation—a situation which I will not miscall, which I dare not name, which I scarcely know how to comprehend in the terms of any description.

To restore order and repose to an empire so great and so distracted as ours is merely in the attempt an undertaking that would ennoble the flights of the highest genius, and obtain pardon for the efforts of the meanest understanding. Struggling a good while with these thoughts, by degrees I felt myself more firm. I derived, at length, some confidence from what in other circumstances usually produces timidity. I grew less anxious, even from the idea of my own insignificance. For, judging of what you are by what you ought to be, I persuaded myself that you would not reject a reasonable proposition because it had nothing but its reason to recommend it.

The *proposition* is peace. Not peace through the medium of war; not peace to be hunted through the labyrinth of intricate and endless negotiations; not peace to arise out of universal discord, fomented from principle, in all parts of the empire; not peace to depend on the juridical determination of perplexing questions, or the precise marking the shadowy boundaries of a complex government. It is simple peace, sought in its natural course and its ordinary haunts. It is peace sought in the spirit of peace, and laid in principles purely pacific. I propose, by removing the ground of the difference, and by restoring the former *unsuspecting confidence of the colonies in the mother country*,¹ to give permanent satisfaction to your people; and, far from a scheme of ruling by discord, to reconcile them to each other in the same act, and by the bond of the very same interest which reconciles them to British government.

My idea is nothing more. Refined policy ever has been the parent of confusion, and ever will be so as long as the world endures. Plain good intention, which is as easily discovered

¹ See declaration of the Congress at Philadelphia in 1774, on page 93.

at the first view as fraud is surely detected at last, is (let me say) of no mean force in the government of mankind. Genuine simplicity of heart is a healing and cementing principle. My plan, therefore, being formed upon the most simple grounds imaginable, may disappoint some people when they hear it. It has nothing to recommend it to the pruriency of curious ears. There is nothing at all new and captivating in it. It has nothing of the splendor of the project which has been lately laid upon your table by the noble Lord in the blue ribbon [Lord North]. It does not propose to fill your lobby with squabbling colony agents, who will require the interposition of your mace at every instant to keep the peace among them. It does not institute a magnificent auction of finance, where captivated provinces come to general ransom by bidding against each other until you knock down the hammer, and determine a proportion of payments beyond all the powers of algebra to equalize and settle.

The House has declared conciliation admissible *previous* to any submission on the part of America. It has even shot a good deal beyond that mark, and has admitted that the complaints of our former mode of exerting the right of taxation were not wholly unfounded.

The means proposed by the noble Lord for carrying his ideas into execution I think, indeed, are very indifferently suited to the end; and this I shall endeavor to show you before I sit down. But for the present I take my ground on the admitted *principles*. I mean to give peace. Peace implies reconciliation; and where there has been a material dispute reconciliation does in a manner always imply concession on the one part or on the other. In this state of things I make no difficulty in affirming that the proposal ought to originate from us. Great and acknowledged force is not impaired, either in effect or in opinion, by an unwillingness to exert itself. The superior power may offer peace with honor and with safety. Such an offer from such a power will be attributed to magnanimity. But the concessions of the weak are the concessions of fear. When such a one is disarmed, he is wholly at the mercy of his superior, and he loses forever that time and those chances which, as they happen to all men, are the strength and resources of all inferior power.

The capital leading questions on which you must this day decide are these two: *First, whether you ought to concede; and, secondly, what your concession ought to be.*

On the first of these questions we have gained, as I have

But, it will be said, is not this American trade an unnatural protuberance that has drawn the juices from the rest of the body? The reverse. It is the very food that has nourished every other part into its present magnitude. Our general trade has been greatly augmented, and augmented more or less in almost every part to which it ever extended, but with this material difference, that, of the six millions which in the beginning of the century constituted the whole mass of our export commerce, the colony trade was but one twelfth part; it is now (as a part of sixteen millions) considerably more than a third of the whole. This is the relative proportion of the importance of the colonies of these two periods; and all reasoning concerning our mode of treating them must have this proportion as its basis, or it is a reasoning weak, rotten, and sophistical.

I pass to the colonies in another point of view—their *agriculture*. This they have prosecuted with such a spirit that, besides feeding plentifully their own growing multitude, their annual export of grain, comprehending rice, has, some years ago, exceeded a million in value. For some time past the old world has been fed from the new. The scarcity which you have felt would have been a desolating famine if this child of your old age, with a true filial piety, with a Roman charity, had not put the full breast of its youthful exuberance to the mouth of its exhausted parent.¹

As to the wealth which the colonies have drawn from the sea by their *fisheries*, you had all that matter fully opened at your bar. You surely thought those acquisitions of value, for they seemed even to excite your envy; and yet the spirit by which that enterprising employment has been exercised ought rather, in my opinion, to have raised your esteem and admiration. And pray, sir, what in the world is equal to it? Pass by the other parts, and look at the manner in which the people of New England have of late carried on the whale fishery. While we follow them among the tumbling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's Bay and Davis' Straits—while we are looking for them beneath the arctic circle, we hear that they have pierced into the opposite region of polar cold—that they are at the antipodes, and engaged under the frozen Serpent of the south. Falkland Island, which seemed too remote and romantic an object for the grasp of national ambition, is but a stage and resting-place in the progress of their victorious industry. Nor is the equino-

¹ An allusion to the story of a Roman matron told in Valerius Maximus, V, 7, and Pliny, Nat. Hist., 7, 36.

just taken the liberty of observing to you, some ground. But I am sensible that a good deal more is still to be done. Indeed, sir, to enable us to determine both on the one and the other of these great questions with a firm and precise judgment, I think it may be necessary to consider distinctly:

The true *nature* and the peculiar *circumstances* of the object which we have before us—because, after all our struggle, whether we will or not, we must govern America according to that nature and to those circumstances, and not according to our imaginations; not according to abstract ideas of right; by no means according to mere general theories of government, the resort to which appears to me, in our present situation, no better than arrant trifling. I shall therefore endeavor, with your leave, to lay before you some of the most material of these circumstances in as full and as clear a manner as I am able to state them.

Here the speaker discussed the *population* of the colonies, which he had found to be two million whites and five hundred thousand blacks, all increasing so fast that “while we spend our time in deliberating on the mode of governing two millions we shall find we have two millions more to manage.” This fact, he said to the House, “will show that you ought not, in reason, to trifle with so large a mass of the interests and feelings of the human race. You could at no time do so without guilt, and, be assured, you will not be able to do it long with impunity.”

But the population of this country, the great and growing population, though a very important consideration, will lose much of its weight if not combined with other circumstances. The *commerce* of your colonies is out of all proportion beyond the numbers of the people.

Examine this account:

The whole export trade of England, including that to the colonies, in 1704.....	£8,509,000
Exported to the colonies alone, in 1772.....	6,024,000
Difference.....	£485,000

The trade with America alone is now within less than £500,000 of being equal to what this great commercial nation, England, carried on at the beginning of this century with the whole world!

tial heat more discouraging to them than the accumulated winter of both the poles. We know that, while some of them draw the line, and strike the harpoon on the coast of Africa, others run the longitude, and pursue their gigantic game along the coast of Brazil. No sea but what is vexed by their fisheries. No climate that is not witness to their toils. Neither the perseverance of Holland, nor the activity of France, nor the dexterous and firm sagacity of English enterprise, ever carried this most perilous mode of hardy industry to the extent to which it has been pushed by this recent people—a people who are still, as it were, but in the gristle, and not yet hardened into the bone of manhood. When I contemplate these things—when I know that the colonies in general owe little or nothing to any care of ours, and that they are not squeezed into this happy form by the constraints of watchful and suspicious government, but that, through a wise and salutary neglect, a generous nature has been suffered to take her own way to perfection—when I reflect upon these effects—when I see how profitable they have been to us, I feel all the pride of power sink, and all presumption in the wisdom of human contrivances melt and die away within me. My rigor relents. I pardon something to the spirit of liberty.

I am sensible, sir, that all which I have asserted in my detail is admitted in the gross; but that quite a different conclusion is drawn from it. America, gentlemen say, is a noble object. It is an object well worth fighting for. Certainly it is, if fighting a people be the best way of gaining them. Gentlemen in this respect will be led to their choice of means by their complexions and their habits. Those who understand the military art will, of course, have some predilection for it. Those who wield the thunder of the state may have more confidence in the efficacy of arms. But I confess, possibly for want of this knowledge, my opinion is much more in favor of prudent management than of force; considering force not as an odious, but a feeble, instrument for preserving a people so numerous, so active, so growing, so spirited as this in a profitable and subordinate connection with us.

First, sir, permit me to observe, that the use of force alone is but *temporary*. It may subdue for a moment, but it does not remove the necessity of subduing again; and a nation is not governed which is perpetually to be conquered.

My next objection is its *uncertainty*. Terror is not always the effect of force; and an armament is not a victory. If you do not succeed, you are without resource; for, conciliation fail-

ing, force remains; but, force failing, no farther hope of reconciliation is left. Power and authority are sometimes bought by kindness, but they can never be begged as alms by an impoverished and defeated violence.

A farther objection to force is, that you *impair the object* by your very endeavors to preserve it. The thing you fought for is not the thing which you recover; but depreciated, sunk, wasted, and consumed in the contest. Nothing less will content me than *whole* America. I do not choose to consume its strength along with our own, because in all parts it is the British strength that I consume. I do not choose to be caught by a foreign enemy at the end of this exhausting conflict, and still less in the midst of it. I may escape; but I can make no insurance against such an event. Let me add, that I do not choose wholly to break the American spirit, because it is the spirit that has made the country.

Lastly, we have no sort of *experience* in favor of force as an instrument in the rule of our colonies. Their growth and their utility have been owing to methods altogether different. Our ancient indulgence has been said to be pursued to a fault. It may be so; but we know, if feeling is evidence, that our fault was more tolerable than our attempt to mend it; and our sin far more salutary than our penitence.

These, sir, are my reasons for not entertaining that high opinion of untried force by which many gentlemen, for whose sentiments in other particulars I have great respect, seem to be so greatly captivated.

But there is still behind a third consideration concerning this object, which serves to determine my opinion on the sort of policy which ought to be pursued in the management of America, even more than its population and its commerce—I mean its temper and character. In this character of the Americans a *love of freedom* is the predominating feature, which marks and distinguishes the whole; and, as an ardent is always a jealous affection, your colonies become suspicious, restive, and untractable, whenever they see the least attempt to wrest from them by force, or shuffle from them by chicanery, what they think the only advantage worth living for. This fierce spirit of liberty is stronger in the English colonies, probably, than in any other people of the earth, and this from a variety of powerful causes, which, to understand the true temper of their minds, and the direction which this spirit takes, it will not be amiss to lay open somewhat more largely.

First, the people of the colonies are descendants of English-

lenity or indolence, through wisdom or mistake, confirmed them in the imagination that they, as well as you, had an interest in these common principles.

They were further confirmed in these pleasing errors by the form of their provincial legislative assemblies. Their governments are popular in a high degree; some are merely popular; in all, the popular representative is the most weighty; and this share of the people in their ordinary government never fails to inspire them with lofty sentiments, and with a strong aversion from whatever tends to deprive them of their chief importance.

If anything were wanting to this necessary operation of the form of government, *religion* would have given it a complete effect. Religion, always a principle of energy, in this new people is no way worn out or impaired; and their mode of professing it is also one main cause of this free spirit. The people are Protestants; and of that kind which is the most averse to all implicit submission of mind and opinion. This is a persuasion not only favorable to liberty, but built upon it. I do not think, sir, that the reason of this averseness in the dissenting churches from all that looks like absolute government is so much to be sought in their religious tenets as in their history. Every one knows that the Roman Catholic religion is at least coeval with most of the governments where it prevails; that it has generally gone hand in hand with them; and received great favor and every kind of support from authority. The Church of England, too, was formed from her cradle under the nursing care of regular government. But the dissenting interests have sprung up in direct opposition to all the ordinary powers of the world, and could justify that opposition only on a strong claim to natural liberty. Their very existence depended on the powerful and unremitted assertion of that claim. All Protestantism, even the most cold and passive, is a kind of dissent. But the religion most prevalent in our northern colonies is a refinement on the principle of resistance; it is the dissidence of dissent; and the Protestantism of the Protestant religion. This religion, under a variety of denominations, agreeing in nothing but in the communion of the spirit of liberty, is predominant in most of the northern provinces; where the Church of England, notwithstanding its legal rights, is in reality no more than a sort of private sect, not composing, most probably, the tenth of the people. The colonists left England when this spirit was high, and in the emigrants was the highest of all; and even that stream of foreigners which has been constantly flowing into these colonies has, for the greatest part, been composed of

men. England, sir, is a nation which still, I hope, respects, and formerly adored, her freedom. The colonists emigrated from you when this part of your character was most predominant; and they took this bias and direction the moment they parted from your hands. They are, therefore, not only devoted to liberty, but to liberty according to English ideas and on English principles. Abstract liberty, like other mere abstractions, is not to be found. Liberty inheres in some sensible object; and every nation has formed to itself some favorite point which, by way of eminence, becomes the criterion of their happiness. It happened you know, sir, that the great contests for freedom in this country were, from the earliest times, chiefly upon the question of taxing. Most of the contests in the ancient commonwealths turned primarily on the right of election of magistrates, or on the balance among the several orders of the State. The question of money was not with them so immediate. But in England it was otherwise. On this point of taxes the ablest pens and most eloquent tongues have been exercised; the greatest spirits have acted and suffered. In order to give the fullest satisfaction concerning the importance of this point, it was not only necessary for those who, in argument, defended the excellence of the English constitution to insist on this privilege of granting money as a dry point of fact, and to prove that the right had been acknowledged in ancient parliaments and blind usages to reside in a certain body called the House of Commons. They went much farther: they attempted to prove (and they succeeded) that in theory it ought to be so, from the particular nature of a House of Commons as an immediate representative of the people, whether the old records had delivered this oracle or not. They took infinite pains to inculcate as a fundamental principle that in all monarchies the people must, in effect, themselves, mediately or immediately, possess the power of granting their own money, or no shadow of liberty could subsist. The colonies draw from you, as with their life-blood, those ideas and principles. Their love of liberty, as with you, fixed and attached on this specific point of taxing. Liberty might be safe or might be endangered in twenty other particulars without their being much pleased or alarmed. Here they felt its pulse, and, as they found that beat, they thought themselves sick or sound. I do not say whether they were right or wrong in applying your general arguments to their own case. It is not easy, indeed, to make a monopoly of theorems and corollaries. The fact is, that they did thus apply those general arguments; and your mode of governing them, whether through

dissenters from the establishments of their several countries, and have brought with them a temper and character far from alien to that of the people with whom they mixed.

Sir, I can perceive by their manner that some gentlemen object to the latitude of this description, because in the southern colonies the Church of England forms a large body, and has a regular establishment. It is certainly true. There is, however, a circumstance attending those colonies, which, in my opinion, fully counterbalances this difference, and makes the spirit of liberty still more high and haughty than in those to the northward. It is that in Virginia and the Carolinas they have a vast multitude of *slaves*. Where this is the case in any part of the world, those who are free are by far the most proud and jealous of their freedom. Freedom is to them not only an enjoyment, but a kind of rank and privilege. Not seeing there that freedom, as in countries where it is a common blessing and as broad and general as the air, may be united with much abject toil, with great misery, with all the exterior of servitude, liberty looks among them like something that is more noble and liberal. I do not mean, sir, to commend the superior morality of this sentiment, which has at least as much pride as virtue in it; but I cannot alter the nature of man. The fact is so; and these people of the southern colonies are much more strongly, and with a higher and more stubborn spirit, attached to liberty than those to the northward. Such were all the ancient commonwealths; such were our Gothic ancestors; such, in our days, were the Poles, and such will be all masters of slaves who are not slaves themselves. In such a people the haughtiness of domination combines with the spirit of freedom, fortifies it, and renders it invincible.

Permit me, sir, to add another circumstance in our colonies which contributes no mean part toward the growth and effect of this intractable spirit—I mean their *education*. In no country perhaps in the world is the *law* so general a study. The profession itself is numerous and powerful; and in most provinces it takes the lead. The greater number of the deputies sent to Congress were lawyers. But all who read (and most do read) endeavor to obtain some smattering in that science. I have been told by an eminent bookseller that in no branch of his business, after tracts of popular devotion, were so many books as those on the law exported to the Plantations. The colonists have now fallen into the way of printing them for their own use. I hear that they have sold nearly as many of Blackstone's Commentaries in America as in England. General

Gage marks out this disposition very particularly in a letter on your table. He states that all the people in his government are lawyers, or smatterers in law; and that in Boston they have been enabled, by successful chicanery, wholly to evade many parts of one of your capital penal constitutions.¹ The smartness of debate will say that this knowledge ought to teach them more clearly the rights of legislature, their obligations to obedience, and the penalties of rebellion. All this is mighty well. But my honorable and learned friend [the Attorney-General, afterward Lord Thurlow] on the floor, who condescends to mark what I say for animadversion, will disclaim that ground. He has heard, as well as I, that when great honors and great emoluments do not win over this knowledge to the service of the state, it is a formidable adversary to government. If the spirit be not tamed and broken by these happy methods, it is stubborn and litigious. *About studia in mores.*² This study renders men acute, inquisitive, dexterous, prompt in attack, ready in defence, full of resources. In other countries, the people more simple and of a less mercurial cast, judge of an ill principle in government only by an actual grievance. Here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance; and snuff the approach of tyranny in every tainted breeze.

The last cause of this disobedient spirit in the colonies is hardly less powerful than the rest, as it is not merely moral, but laid deep in the natural constitution of things. Three thousand miles of ocean lie between you and them. No contrivance can prevent the effect of this distance in weakening government. Seas roll and months pass between the order and the execution; and the want of a speedy explanation of a single point is enough to defeat the whole system. You have, indeed, "winged ministers" of vengeance, who carry your bolts in their pouches to the remotest verge of the sea.³ But there a power steps in that limits the arrogance of raging passion and furious elements, and says: "So far shalt thou go, and no farther." Who are you, that should fret and rage, and bite the chains of nature? Nothing worse happens to you than does to all nations who have extensive empire; and it happens in all the forms into which empire can be thrown. In large bodies the circulation of power must be less vigorous at the extremities. Nature has said it.

¹ *I. e.*, that which prohibited the calling of town meetings (see page 82). This the colonists evaded by adjourning the meetings.

² "One's habitual pursuits pass over into character."

³ "Winged minister of thunder."—Horace.

people there, finding all passage through the legal channel stopped, with great violence broke out another way. Some provinces have tried their experiment as we have tried ours; and theirs has succeeded. They have formed a government sufficient for the purposes, without the bustle of a revolution or the troublesome formality of an election. Evident necessity and tacit consent have done the business in an instant. So well they have done it, that Lord Dunmore (the account is among the fragments on your table) tells you, that the new institution is infinitely better obeyed than the ancient government ever was in its most fortunate periods. Obedience is what makes government, and not the names by which it is called; not the name of governor, as formerly, or committee, as at present. This new government has originated directly from the people, and was not transmitted through any of the ordinary artificial media of a positive constitution. It was not a manufacture ready formed and transmitted to them in that condition from England. The evil arising from hence is this: that, the colonists having once found the possibility of enjoying the advantages of order in the midst of a struggle for liberty, such struggles will not henceforward seem so terrible to the settled and sober part of mankind as they had appeared before the trial.

Pursuing the same plan of punishing by the denial of the exercise of government to still greater lengths, we wholly abrogated the ancient government of Massachusetts. We were confident that the first feeling, if not the very prospect of anarchy, would instantly enforce a complete submission. The experiment was tried. A new, strange, unexpected face of things appeared. Anarchy is found tolerable. A vast province has now subsisted, and subsisted in a considerable degree of health and vigor, for near a twelvemonth, without governor, without public council, without judges, without executive magistrates. How long it will continue in this state, or what may arise out of this unheard-of situation, how can the wisest of us conjecture? Our late experience has taught us that many of those fundamental principles, formerly believed infallible, are either not of the importance they were imagined to be, or that we have not at all adverted to some other far more important and far more powerful principles which entirely overrule those we had considered as omnipotent. I am much against any farther experiments which tend to put to the proof any more of these allowed opinions which contribute so much to the public tranquillity. In effect, we suffer as much at home by this loosening of all ties, and this concussion of all established opinions, as we do abroad.

Here the speaker instanced the Turkish and Spanish empires as tolerant from necessity toward their distant provinces.

Then, sir, from these six capital sources of descent a fierce spirit of liberty has grown up. It has grown with the growth of the people in your colonies, and increased with the increase of their wealth; a spirit that, unhappily meeting with an exercise of power in England, which, however lawful, is not reconcilable to any ideas of liberty, much less with theirs, has kindled this flame that is ready to consume us.

I do not mean to commend either the spirit in this excess, or the moral causes which produce it. Perhaps a more smooth and accommodating spirit of freedom in them would be more acceptable to us. Perhaps ideas of liberty might be desired, more reconcilable with an arbitrary and boundless authority. Perhaps we might wish the colonists to be persuaded that their liberty is more secure when held in trust for them by us, as guardians during a perpetual minority, than with any part of it in their own hands. But the question is not whether their spirit deserves praise or blame. What, in the name of God, shall we do with it? You have before you the object, such as it is, with all its glories, with all its imperfections on its head. You see the magnitude, the importance, the temper, the habits, the disorders. By all these considerations we are strongly urged to determine something concerning it. We are called upon to fix some rule and line for our future conduct which may give a little stability to our politics, and prevent the return of such unhappy deliberations as the present. Every such return will bring the matter before us in a still more intractable form. For what astonishing and incredible things have we not seen already? What monsters have not been generated from this unnatural contention? While every principle of authority and resistance has been pushed upon both sides, as far as it would go, there is nothing so solid and certain, either in reasoning or in practice, that it has not been shaken. Until very lately, all authority in America seemed to be nothing but an emanation from yours. Even the popular part of the colony constitution derived all its activity, and its first vital movement, from the pleasure of the Crown. We thought, sir, that the utmost which the discontented colonists could do, was to disturb authority. We never dreamed they could of themselves supply it, knowing in general what an onerous business it is to establish a government absolutely new. But having, for our purposes in this contention, resolved that none but an obedient assembly should sit, the humors of the

For, in order to prove that the Americans have no right to their liberties, we are every day endeavoring to subvert the maxims which preserve the whole spirit of our own. To prove that the Americans ought not to be free, we are obliged to depreciate the value of freedom itself; and we never seem to gain a paltry advantage over them in debate without attacking some of those principles, or deriding some of those feelings for which our ancestors have shed their blood.

Sir, I would state that, as far as I am capable of discerning, there are but three ways of proceeding relative to this stubborn spirit which prevails in your colonies and disturbs your government. These are, to change that spirit, as inconvenient, by removing the causes; to prosecute it as criminal; or to comply with it as necessary. I would not be guilty of an imperfect enumeration. I can think of but these three. Another has, indeed, been started—that of giving up the colonies; but it met so slight a reception that I do not think myself obliged to dwell a great while upon it. It is nothing but a little sally of anger, like the frowardness of peevish children, who, when they cannot get all they would have, are resolved to take nothing.

The first of these plans, to change the spirit as inconvenient by removing the causes, I think is the most like a systematic proceeding. It is radical in its principle, but it is attended with great difficulties, some of them little short, as I conceive, of impossibilities. This will appear by examining into the plans which have been proposed.

As the growing population of the colonies is evidently one cause of their resistance, it was last session mentioned in both Houses by men of weight, and received, not without applause, that, in order to check this evil, it would be proper for the Crown to make no farther grants of land.

But if you stopped your grants what would be the consequence? The people would occupy without grants. They have already so occupied in many places. You cannot station garrisons in every part of these deserts. If you drive the people from one place they will carry on their annual tillage, and remove with their flocks and herds to another. Many of the people in the back settlements are already little attached to particular situations. Already they have topped the Appalachian Mountains. From thence they behold before them an immense plain, one vast, rich, level meadow—a square of five hundred miles. Over this they would wander without a possibility of restraint. They would change their manners with the habits of their life; would soon forget a government by which they were disowned;

would become hordes of English Tartars; and, pouring down upon your unfortified frontiers a fierce and irresistible cavalry, become masters of your governors and your counselors, your collectors and controllers, and of all the slaves that adhered to them. Such would, and, in no long time, must, be the effect of attempting to forbid as a crime, and to suppress as an evil, the command and blessing of Providence, "Increase and multiply." Such would be the happy result of an endeavor to keep as a lair of wild beasts that earth which God by an express charter has given to the children of men. Far different, and surely much wiser, has been our policy hitherto. Hitherto we have invited our people, by every kind of bounty, to fixed establishments. We have invited the husbandman to look to authority for his title. We have taught him piously to believe in the mysterious virtue of wax and parchment. We have thrown each tract of land, as it was peopled, into districts, that the ruling power should never be wholly out of sight. We have settled all we could, and we have carefully attended every settlement with government.

Adhering, sir, as I do, to this policy, as well as for the reasons I have just given, I think this new project of hedging in population to be neither prudent nor practicable.

To impoverish the colonies in general, and in particular to arrest the noble course of their marine enterprises would be a more easy task. I freely confess it. We have shown a disposition to all other things; a disposition even to continue the restraint after the offence, looking on ourselves as rivals to our colonies, and persuaded that of course we must gain all that they shall lose. Much mischief we may certainly do. The power inadequate to all other things is often more than sufficient for this. I do not look on the direct and immediate power of the colonies to resist our violence as very formidable. In this, however, I may be mistaken. But when I consider that we have colonies for no purpose but to be serviceable to us, it seems to my poor understanding a little preposterous to make them un-serviceable in order to keep them obedient. It is, in truth, nothing more than the old and, as I thought, exploded problem of tyranny, which proposes to beggar its subject into submission. But remember, when you have completed your system of impoverishment, that nature still proceeds in her ordinary course; that discontent will increase with misery; and that there are critical moments in the fortunes of all states when they who are too weak to contribute to your prosperity may be strong enough to complete your ruin. "*Spoliatis arma supersunt.*"¹

¹"To the despoiled arms still remain."

that inhuman traffic! An offer of freedom from England would come rather oddly, shipped to them in an African vessel, which is refused an entry into the ports of Virginia or Carolina, with a cargo of three hundred Angola negroes. It would be curious to see the Guinea captain attempt at the same instant to publish his proclamation of liberty and to advertise the sale of slaves.

But let us suppose all these moral difficulties got over. The ocean remains. You cannot pump this dry; and as long as it continues in its present bed so long all the causes which weaken authority by distance will continue.

"Ye gods! annihilate but space and time,
And make two lovers happy!"

was a pious and passionate prayer, but just as reasonable as many of these serious wishes of very grave and solemn politicians.

If, then, sir, it seems almost desperate to think of any alternative course for changing the moral causes (and not quite easy to remove the natural) which produce the prejudices irreconcilable to the late exercise of our authority, but that the spirit infallibly will continue, and, continuing, will produce such effects as now embarrass us, the second mode under consideration is to prosecute that spirit in its overt acts as criminal.

At this proposition I must pause a moment. The thing seems a great deal too big for my ideas of jurisprudence. It should seem, to my way of conceiving such matters, that there is a very wide difference in reason and policy between the mode of proceeding on the irregular conduct of scattered individuals, or even of bands of men, who disturb order within the state, and the civil dissensions which may from time to time on great questions agitate the several communities which compose a great empire. It looks to me to be narrow and pedantic to apply the ordinary ideas of criminal justice to this great public contest. I do not know the method of drawing up an indictment against a whole people. I cannot insult and ridicule the feelings of millions of my fellow-creatures, as Sir Edward Coke insulted one excellent individual at the bar.¹ I am not ripe to pass sentence on the gravest public bodies, intrusted with magistracies of great authority and dignity, and charged with the safety of their fellow-citizens, upon the very same title that I am. I really think that, for wise men, this is not judicious; for sober

¹Sir Walter Raleigh at his trial for treason. See Howell's "State Trials."

The temper and character which prevail in our colonies are, I am afraid, unalterable by any human art. We cannot, I fear, falsify the pedigree of this fierce people, and persuade them that they are not sprung from a nation in whose veins the blood of freedom circulates. The language in which they would hear you tell them this tale would detect the imposition. Your speech would betray you. An Englishman is the unfittest person on earth to argue another Englishman into slavery.

I think it is nearly as little in our power to change their republican religion as their free descent; or to substitute the Roman Catholic as a penalty, or the Church of England as an improvement. The mode of inquisition and dragooning is going out of fashion in the old world, and I should not confide much to their efficacy in the new. The education of the Americans is also on the same unalterable bottom with their religion. You cannot persuade them to burn their books of curious science; to banish their lawyers from their courts of law; or to quench the lights of their assemblies by refusing to choose those persons who are best read in their privileges. It would be no less impracticable to think of wholly annihilating the popular assemblies in which these lawyers sit. The army, by which we must govern in their place, would be far more chargeable to us; not quite so effectual; and perhaps, in the end, full as difficult to be kept in obedience.

With regard to the high aristocratic spirit of Virginia and the southern colonies, it has been proposed, I know, to reduce it, by declaring a general *enfranchisement of their slaves*. This project has had its advocates and panegyrists, yet I never could argue myself into an opinion of it. Slaves are often much attached to their masters. A general wild offer of liberty would not always be accepted. History furnishes few instances of it. It is sometimes as hard to persuade slaves to be free as it is to compel freemen to be slaves; and in this auspicious scheme we should have both these pleasing tasks on our hands at once. But when we talk of enfranchisement do we not perceive that the American master may enfranchise, too, and arm servile hands in defence of freedom? A measure to which other people have had recourse more than once, and not without success, in a desperate situation of their affairs.

Slaves as these unfortunate black people are, and dull as all men are from slavery, must they not a little suspect the offer of freedom from that very nation which has sold them to their present masters?—From that nation, one of whose causes of quarrel with those masters is their refusal to deal any more in

men, not decent; for minds tinctured with humanity, not mild and merciful.

Perhaps, sir, I am mistaken in my idea of an empire as distinguished from a single state or kingdom. But my idea of it is this: that an empire is the aggregate of many states under one common head whether this head be a monarch or a presiding republic. It does, in such constitutions, frequently happen (and nothing but the dismal, cold, dead uniformity of servitude can prevent its happening) that the subordinate parts have many local privileges and immunities. Between these privileges and the supreme common authority the line may be extremely nice. Of course disputes—often, too, very bitter disputes, and much ill blood, will arise. But, though every privilege is an exemption, in the case, from the ordinary exercise of the supreme authority, it is no denial of it. The claim of a privilege seems rather, *ex vi termini*,¹ to imply a superior power; for to talk of the privileges of a state or of a person who has no superior is hardly any better than speaking nonsense. Now, in such unfortunate quarrels among the component parts of a great political union of communities I can scarcely conceive anything more completely imprudent than for the head of the empire to insist that, if any privilege is pleaded against his will or his acts, his *whole* authority is denied; instantly to proclaim rebellion, to beat to arms, and to put the offending provinces under the ban. Will not this, sir, very soon teach the provinces to make no distinctions on their part? Will it not teach them that the government against which a claim of liberty is tantamount to high treason is a government to which submission is equivalent to slavery? It may not always be quite convenient to impress dependent communities with such an idea.

We are, indeed, in all disputes with the colonies, by the necessity of things, the judge. It is true, sir; but I confess that the character of judge in my own cause is a thing that frightens me. Instead of filling me with pride, I am exceedingly humbled by it. I cannot proceed with a stern, assured, judicial confidence until I find myself in something more like a judicial character. I must have these hesitations as long as I am compelled to recollect that, in my little reading upon such contests as these, the sense of mankind has at least as often decided against the superior as the subordinate power. Sir, let me add, too, that the opinion of my having some abstract right in my favor would not put me much at my ease in passing sentence, unless I could be sure that there were no rights which in their exercise under

¹"From the force of the end."

certain circumstances were not the most odious of all wrongs, and the most vexatious of all injustice. Sir, these considerations have great weight with me when I find things so circumstanced that I see the same party at once a civil litigant against me in point of right and a culprit before me; while I sit as criminal judge on acts of his whose moral quality is to be decided on upon the merits of that very litigation. Men are every now and then put, by the complexity of human affairs, into strange situations; but justice is the same, let the judge be in what situation he will.

In this situation let us seriously and coolly ponder. What is it we have got by all our menaces, which have been many and ferocious? What advantage have we derived from the penal laws we have passed, and which, for the time, have been severe and numerous? What advances have we made toward our object by the sending of a force which, by land and sea, is no contemptible strength? Has the disorder abated? Nothing less. When I see things in this situation, after such confident hopes, bold promises, and active exertions, I cannot, for my life, avoid a suspicion that the plan itself is not correctly right.

If, then, the removal of the causes of this spirit of American liberty be, for the greater part, or rather entirely, impracticable; if the ideas of criminal process be inapplicable, or, if applicable, are in the highest degree inexpedient, what way yet remains? No way is open but the third and last—to comply with the American spirit as necessary, or, if you please, to submit to it as a necessary evil.

If we adopt this mode, if we mean to *conciliate and concede*, let us see of what nature the concessions ought to be. To ascertain the nature of our concession we must look at their complaint. The colonies complain that they have not the characteristic mark and seal of British freedom. They complain that they are taxed in Parliament in which they are not represented. If you mean to satisfy them at all you must satisfy them with regard to this complaint. If you mean to please any people you must give them the boon which they ask; not what you may think better for them, but of a kind totally different. Such an act may be a wise regulation, but it is no concession, whereas our present theme is the mode of giving satisfaction.

Sir, I think you must perceive that I am resolved this day to have nothing at all to do with the question of the right of taxation. Some gentlemen startle, but it is true. I put it totally out of the question. It is less than nothing in my consideration. I do not, indeed, wonder, nor will you, sir, that gentlemen of

profound learning are fond of displaying it on this profound subject. But my consideration is narrow, confined, and wholly limited to the policy of the question. I do not examine whether the giving away a man's money be a power excepted and reserved out of the general trust of government, and how far all mankind, in all forms of polity, are entitled to an exercise of that right by the charter of nature; or whether, on the contrary, a right of taxation is necessarily involved in the general principle of legislation, and inseparable from the ordinary supreme power. These are deep questions, where great names militate against each other; where reason is perplexed; and an appeal to authorities only thickens the confusion; for high and reverend authorities lift up their heads on both sides, and there is no sure footing in the middle. The point is

That Serbionian bog
Betwixt Damietta and Mount Cassius old,
Where armies whole have sunk.¹

I do not intend to be overwhelmed in this bog, though in such respectable company. The question with me is, not whether you have a right to render your people miserable, but whether it is not your interest to make them happy. It is not what a lawyer tells me I *may* do, but what humanity, reason, and justice tell me I *ought* to do. Is a politic act the worse for being a generous one? Is no concession proper but that which is made from your want of right to keep what you grant? Or does it lessen the grace or dignity of relaxing in the exercise of an odious claim, because you have your evidence-room full of titles, and your magazines stuffed with arms to enforce them? What signify all those titles and all those arms? Of what avail are they when the reason of the thing tells me that the assertion of my title is the loss of my suit, and that I could do nothing but wound myself by the use of my own weapons?

I am not determining a point of law. I am restoring tranquillity, and the general character and situation of a people must determine what sort of government is fitted for them. That point nothing else can or ought to determine.

My idea, therefore, without considering whether we yield as matter of right, or grant as matter of favor, is to *admit the people of our colonies into an interest in the constitution*, and, by recording that admission in the journals of Parliament, to give them as strong an assurance as the nature of the thing will

¹From Milton's "Paradise Lost." The elevated style of Milton appeared peculiarly to Burke, who was his immediate successor in the line of supreme masters of English.

admit that we mean forever to adhere to that solemn declaration of systematic indulgence.

Here the speaker showed the futility of taxation of the colonies, and answered the contention of those who wished to retain the taxes, since if these were abolished the colonists would instantly attack the Trade Laws.

These gentlemen are convinced that this was the intention from the beginning, and the quarrel of the Americans with taxation was no more than a cloak and cover to this design. I am, sir, not a little surprised at this kind of discourse, and I am the more surprised, on account of the arguments which I constantly find in company with it, and which are often urged from the same mouths and on the same day.

For instance, when we allege that it is against reason to tax a people under so many restraints in trade as the Americans, the noble lord in the blue ribbon [Lord North] shall tell you that the restraints on trade are futile and useless; of no advantage to us, and of no burden to those on whom they are imposed; that the trade of America is not secured by the acts of navigation, but by the natural and irresistible advantage of a commercial preference.

But when strong internal circumstances are urged against the taxes; when the scheme is dissected; when experience and the nature of things are brought to prove, and do prove, the utter impossibility of obtaining an effective revenue from the colonies; then, sir, the sleeping trade laws revive from their trance, and this useless taxation is to be kept sacred, not for its own sake, but as a counterguard and security of the laws of trade.

Then, sir, you keep up revenue laws which are mischievous in order to preserve trade laws that are useless. Such is the wisdom of our plan in both its members. They are separately given up as of no value, and yet one is always to be defended for the sake of the other. But I cannot agree with the noble lord, nor with the pamphlet from whence he seems to have borrowed these ideas, concerning the inutility of the trade laws¹; for, without idolizing them, I am sure they are still, in many ways, of great use to us; and in former times they have been of the greatest.

One fact is clear and indisputable. The public and avowed origin of this quarrel was on taxation. This quarrel has, indeed,

¹This was by Dean Tucker, an advocate of complete free trade with the colonies.

brought on new disputes on new questions, but certainly the least bitter, and the fewest of all, on the trade laws. To judge which of the two be the real radical cause of quarrel, we have to see whether the commercial dispute did, in order of time, precede the dispute on taxation. There is not a shadow of evidence for it. Next, to enable us to judge whether at this moment a dislike to the trade laws be the real cause of quarrel, it is absolutely necessary to put the taxes out of the question by a repeal. See how the Americans act in this position, and then you will be able to discern correctly what is the true object of the controversy, or whether any controversy at all will remain. Unless you consent to remove this cause of difference it is impossible, with decency, to assert that the dispute is not upon what it is avowed to be. And I would, sir, recommend to your serious consideration whether it be prudent to form a rule for punishing people, not on their own acts, but on your conjectures. Surely it is preposterous at the very best. It is not justifying your anger by their misconduct, but it is converting your ill will into their delinquency.

But the colonies will go farther. Alas! alas! when will this speculating against fact and reason end? What will quiet these panic fears which we entertain of the hostile effect of a conciliatory conduct? Is it true that no case can exist in which it is proper for the sovereign to accede to the desires of his discontented subjects? Is there anything peculiar in this case to make a rule for itself? Is all authority of course lost when it is not pushed to the extreme? Is it a certain maxim that the fewer causes of dissatisfaction are left by government the more the subject will be inclined to resist and rebel?

Here the speaker entered into the subject of the constitutional relations of England with Ireland, Wales, Chester and Durham.

England, at the conquest of Ireland, extended to that country English laws and liberties.

This benefit, I confess, was not at first extended to *all* Ireland. Mark the consequence. English authority and English liberty had exactly the same boundaries.² Your standard could never be advanced an inch before your privileges. Sir John Davis³

¹I. e., they were limited by "The Pale," or the district of English settlement.

²In his work "Discoverie of the True Causes Why Ireland Was Never Entirely Subdued until the Beginning of His Majesty's Happy Reign" (1612).

shows beyond a doubt that the refusal of a general communication of these rights was the true cause why Ireland was five hundred years in subduing; and, after the vain projects of a military government attempted in the reign of Queen Elizabeth, it was soon discovered that nothing could make that country English in civility and allegiance but your laws and your forms of legislature. It was not English arms, but the English constitution, that conquered Ireland. From that time Ireland has ever had a general Parliament, as she had before a partial Parliament. This has made Ireland the great and flourishing kingdom that it is; and, from a disgrace and a burden intolerable to this nation, has rendered her a principal part of our strength and ornament. This country cannot be said to have ever formally taxed her. Your Irish pensioners would starve if they had no other fund to live on than taxes granted by English authority. Turn your eyes to those popular grants from whence all your great supplies are come, and learn to respect that only source of public wealth in the British empire.

My next example is Wales. This country was said to be reduced by Henry the Third. It was said more truly to be so by Edward the First.

Parliament attempted to subdue the fierce spirit of the Welsh by all sorts of rigorous laws. They prohibited by statute the sending all sorts of arms into Wales, as you prohibit by proclamation (with something more of doubt on the legality) the sending arms to America. They disarmed the Welsh by statute, as you attempted (but still with more question on the legality) to disarm New England by an instruction. They made an act to drag offenders from Wales into England for trial, as you have done (but with more hardship) with regard to America. By another act, where one of the parties was an Englishman, they ordained that his trial should be always by English. They made acts to restrain trade, as you do; and they prevented the Welsh from the use of fairs and markets, as you do the Americans from fisheries and foreign ports.

Here we rub our hands—a fine body of precedents for the authority of Parliament and the use of it—I admit it fully; and pray add likewise to these precedents that all the while Wales rid this kingdom like an *incubus*; that it was an unprofitable and oppressive burden; and that an Englishman traveling in that country could not go six yards from the highroad without being murdered.

The march of the human mind is slow. Sir, it was not until after two hundred years discovered that, by an eternal law,

ter and Durham, surrounded by abundance of representation that is actual and palpable! But, sir, your ancestors thought this sort of virtual representation, however ample, to be totally insufficient for the freedom of the inhabitants of territories that are so near, and comparatively so inconsiderable. How, then, can I think it sufficient for those which are infinitely greater and infinitely more remote?

You will now, sir, perhaps imagine that I am on the point of proposing to you a scheme for representation of the colonies in Parliament. Perhaps I might be inclined to entertain some such thought, but a great flood stops me in my course. *Opposuit natura.*¹ I cannot remove the eternal barriers of the creation. The thing in that mode I do not know to be possible. As I meddle with no theory, I do not absolutely assert the impracticability of such a representation; but I do not see my way to it; and those who have been more confident have not been more successful. However, the arm of public benevolence is not shortened, and there are often several means to the same end. What nature has disjoined in one way wisdom may unite in another. When we cannot give the benefit as we would wish let us not refuse it altogether. If we cannot give the principal let us find a substitute. But how? Where? What substitute?

Fortunately I am not obliged for the ways and means of this substitute to tax my own unproductive invention. I am not even obliged to go to the rich treasury of the fertile framers of imaginary commonwealths; not to the Republic of Plato, not to the Utopia of More, not to the Oceana of Harrington. It is before me. It is at my feet.

And the dull swain
Treads daily on it with his clouted shoon.²

I only wish you to recognize, for the theory, the ancient constitutional policy of this kingdom with regard to representation as that policy has been declared in acts of Parliament; and, as to the practice, to return to that mode which a uniform experience has marked out to you as best, and in which you walked with security, advantage, and honor, until the year 1763.

My resolutions, therefore, mean to establish the equity and justice of a taxation of America, by *grant* and not by imposition. To mark the *legal competency* of the colony assemblies for the support of their government in peace, and for public aids in time of war. To acknowledge that this legal competency has had a *dutiful and beneficial exercise*; and that experience has shown

¹ "Nature has opposed."

² From Milton's "Comus," slightly misquoted.

Providence had decreed vexation to violence, and poverty to rapine. Your ancestors did, however, at length open their eyes to the ill husbandry of injustice. They found that the tyranny of a free people could of all tyrannies the least be endured, and that laws made against a whole nation were not the most effectual methods for securing its obedience. Accordingly, in the twenty-seventh year of Henry VIII, the course was entirely altered. With a preamble stating the entire and perfect rights of the Crown of England, it gave to the Welsh all the rights and privileges of English subjects. A political order was established; the military power gave way to the civil; the marches were turned into counties. But that a nation should have a right to English liberties, and yet no share at all in the fundamental security of these liberties, the grant of their own property, seemed a thing so incongruous that eight years after, that is, in the thirty-fifth of that reign, a complete and not ill-proportioned representation by counties and boroughs was bestowed upon Wales by act of Parliament. From that moment, as by a charm, the tumults subsided; obedience was restored; peace, order, and civilization followed in the train of liberty. When the day-star of the English constitution had arisen in their hearts all was harmony within and without.¹

The speaker followed with the cases of Chester and Durham (which at one time were counties palatine, or possessed of royal privileges), and deduced from them the same point.

Now, if the doctrines of policy contained in these preambles, and the force of these examples in the acts of Parliament, avail anything, what can be said against applying them with regard to America? Are not the people of America as much Englishmen as the Welsh? The preamble of the act of Henry VIII says, the Welsh speak a language no way resembling that of His Majesty's English subjects. Is America in rebellion? Wales was hardly ever free from it. Have you attempted to govern America by penal statutes? You made fifteen for Wales. But your legislative authority is perfect with regard to America. Was it less perfect in Wales, Chester, and Durham? But America is *virtually* represented. What! does the electric force of virtual representation more easily pass over the Atlantic than pervade Wales, which lies in your neighborhood; or than Ches-

¹ This is a reference to Castor and Pollux. "As soon as their white star shines forth for sailors, the dashing tide flows away from the rocks, the winds subside, the clouds flee, and the threatening surge (because they have so willed it) reclines upon the deep."—*Horace*, book i, ode xii.

the benefit of their grants, and the futility of parliamentary taxation as a method of supply.

These solid truths compose six fundamental propositions. There are three more resolutions corollary to these. If you admit the first set, you can hardly reject the others. But if you admit the first, I shall be far from solicitous whether you accept or refuse the last. I think these six massive pillars will be of strength sufficient to support the temple of British concord. I have no more doubt than I entertain of my existence that, if you admitted these, you would command an immediate peace; and, with but tolerable future management, a lasting obedience in America. I am not arrogant in this confident assurance. The propositions are all mere matters of fact; and if they are such facts as draw irresistible conclusions even in the stating, this is the power of truth, and not any management of mine.

Here the speaker presented his propositions, which were to the effect:

1. That the colonies were not represented in Parliament;
2. That they were nevertheless taxed to the prejudice of their interests;
- [This is inferentially admitted in Lord North's proposition.]
3. That from distance and other circumstances no plan has been devised for such representation;
4. That each of the colonies had a popular legislature with taxing power;
5. That these legislatures have responded to requests from the British Government for grants to the King's service, and the right to do so has been acknowledged by Parliament;

[Also, they have contributed voluntarily and to satiety men and money to the defence of the empire in the French and Indian wars, as acknowledged by Parliament.]

6. That grants of such a nature are more agreeable to the colonies than taxes.

The conclusion is irresistible. You cannot say that you were driven by any necessity to an exercise of the utmost rights of legislature. You cannot assert that you took on yourselves the

task of imposing colony taxes from the want of another legal body that is competent to the purpose of supplying the exigencies of the state without wounding the prejudices of the people. Neither is it true that the body so qualified, and having that competence, had neglected the duty.

The question now on all this accumulated matter is—whether you will choose to abide by a profitable experience, or a mischievous theory; whether you choose to build on imagination or fact; whether you prefer enjoyment or hope; satisfaction in your subjects or discontent?

Therefore, proposed Burke, (1) all taxes and repressive acts growing out of the same, such as the Boston Port Bill, are repealed, and the Act for the Trial of Treason committed out of the King's dominions [35th year of Henry VIII] is amended, to confine it to its proper bounds and original intentions, *i. e.*, expressly for trial of treasons in places where the jurisdiction of the Crown does not extend;

2. Judges, paid by the colonial legislatures, shall hold office during good behavior, and not be removed except on complaint of the legislatures and colonial officers;

3. Courts of Admiralty shall be made more commodious for suitors and sued, and the judges put on decent salaries.

These courts I do not wish to take away. They are in themselves proper establishments. This court is one of the capital securities of the Act of Navigation. But courts incommodiously situated in effect deny justice; and a court partaking in the fruits of its own condemnation is a robber. The Congress complain, and complain justly, of this grievance.

These are the three consequential propositions. I have thought of two or three more, but they come rather too near detail, and to the province of executive government, which I wish Parliament always to superintend, never to assume. If the first six are granted congruity will carry the latter three. If not, the things that remain unrepealed will be, I hope, rather unseemly encumbrances on the building than very materially detrimental to its strength and stability.

I do not know that the colonies have, in any general way or in any cool hour, gone much beyond the demand of immunity

in relation to taxes. It is not fair to judge of the temper or dispositions of any man, or any set of men, when they are composed and at rest, from their conduct or their expressions in a state of disturbance and irritation. It is, besides, a very great mistake to imagine that mankind follow up practically any speculative principle, either of government or freedom, as far as it will go in argument and logical illation. We Englishmen stop very short of the principles upon which we support any given part of our constitution, or even the whole of it together. This is nothing but what is natural and proper. All government, indeed every human benefit and enjoyment, every virtue and every prudent act, is founded on compromise and barter. We balance inconveniences; we give and take; we remit some rights that we may enjoy others; and we choose rather to be happy citizens than subtle disputants. As we must give away some natural liberty to enjoy civil advantages, so we must sacrifice some civil liberties for the advantages to be derived from the communion and fellowship of a great empire. But in all fair dealings the thing bought must bear some proportion to the purchase paid. None will barter away "the immediate jewel of his soul."¹ Though a great house is apt to make slaves haughty, yet it is purchasing a part of the artificial importance of a great empire too dear to pay for it all essential rights and all the intrinsic dignity of human nature. None of us who would not risk his life rather than fall under a government purely arbitrary. But, although there are some among us who think our constitution wants many improvements to make it a complete system of liberty, perhaps none who are of that opinion would think it right to aim at such improvement by disturbing his country and risking every thing that is dear to him. In every arduous enterprise we consider what we are to lose as well as what we are to gain; and the more and better stake of liberty every people possess, the less they will hazard in a vain attempt to make it more. These are the *cords of man*.² Man acts from adequate motive relative to his interest, and not on metaphysical speculations. Aristotle, the great master of reasoning, cautions us, and with great weight and propriety, against this species of delusive geometrical accuracy in moral arguments as the most fallacious of all sophistry.³

The Americans will have no interest contrary to the grandeur and glory of England when they are not oppressed by the weight

¹ From Shakspeare's "Othello."

² *Hobbes*, xi, 4.

³ *Politics*.

of it; and they will rather be inclined to respect the acts of a superintending legislature when they see them the acts of that power which is itself the security, not the rival, of their secondary importance. In this assurance my mind most perfectly acquiesces, and I confess I feel not the least alarm from the discontents which are to arise from putting people at their ease; nor do I apprehend the destruction of this empire from giving, by an act of free grace and indulgence, to two millions of my fellow-citizens some share of those rights upon which I have always been taught to value myself.

It is said, indeed, that this power of granting, vested in American assemblies, would dissolve the unity of the empire, which was preserved entire, although Wales, and Chester, and Durham were added to it. Truly, Mr. Speaker, I do not know what this unity means, nor has it ever been heard of, that I know, in the constitutional policy of this country. The very idea of subordination of parts excludes this notion of simple and undivided unity. England is the head, but she is not the head and the members, too. Ireland has ever had from the beginning a separate, but not an independent, legislature, which, far from distracting, promoted the union of the whole. Everything was sweetly and harmoniously disposed through both islands for the conservation of English dominion and the communication of English liberties. I do not see that the same principles might not be carried into twenty islands, and with the same good effect. This is my model with regard to America, as far as the internal circumstances of the two countries are the same. I know no other unity of this empire than I can draw from its example during these periods, when it seemed to my poor understanding more united than it is now, or than it is likely to be by the present methods.

I promised, before I finished, to say something of the proposition of the noble lord [Lord North].

First, then, I cannot admit that proposition of a ransom by auction, because it is a mere project. It is a thing now; unheard of; supported by no experience; justified by no analogy; without example of our ancestors, or root in the constitution. It is neither regular parliamentary taxation nor colony grant. "*Experimentum in corpore vili*"¹ is a good rule, which will ever make me adverse to any trial of experiments on what is certainly the most valuable of all subjects, the peace of this empire.

Secondly, it is an experiment which must be fatal, in the end, to our constitution. For what is it but a scheme for taxing the

¹ "Experiment upon a worthless body."

colonies in the ante-chamber of the noble lord and his successors? To settle the quotas and proportions in this House is clearly impossible. You, sir, may flatter yourself you shall sit a state auctioneer with your hammer in your hand, and knock down to each colony as it bids. But to settle (on the plan laid down by the noble lord) the true proportional payment for four or five-and-twenty governments according to the absolute and the relative wealth of each, and according to the British proportion of wealth and burden, is a wild and chimerical notion. This new taxation must therefore come in by the back door of the constitution. Each quota must be brought to this House ready formed; you can neither add nor alter. You must register it. You can do nothing farther. For on what grounds can you deliberate, either before or after the proposition? You cannot hear the counsel for all these provinces, quarreling each on its own quantity of payment, and its proportion to others. If you should attempt it the committee of provincial ways and means, or by whatever other name it will delight to be called, must swallow up all the time of Parliament.

Thirdly, it does not give satisfaction to the complaint of the colonies. They complain that they are taxed without their consent; you answer that you will fix the sum at which they shall be taxed. That is, you give them the very grievance for the remedy. You tell them indeed, that you will leave the mode to themselves. I really beg pardon. It gives me pain to mention it; but you must be sensible that you will *not perform* this part of the contract. For, suppose the colonies were to lay the duties which furnished their contingent upon the importation of your manufactures, you know you would never suffer such a tax to be laid. You know, too, that you would not suffer many other modes of taxation; so that, when you come to explain yourself, it will be found that you will neither leave to themselves the quantum nor the mode, nor, indeed, any thing. The whole is delusion from one end to the other.

Fourthly, this method of ransom by auction, unless it be universally accepted, will plunge you into great and inextricable difficulties. In what year of our Lord are the proportions of payments to be settled, to say nothing of the impossibility that colony agents should have general powers of taxing the colonies at their discretion? Consider, I implore you, that the communication by special messages, and orders between these agents and their constituents on each variation of the case, when the parties come to contend together and to dispute on their relative proportions, will be a matter of delay, perplexity, and confusion that never can have an end.

If all the colonies do not appear at the outcry what is the condition of those assemblies who offer, by themselves or their agents, to tax themselves up to your ideas of their proportion? The refractory colonies who refuse all composition will remain taxed only to your old impositions, which, however grievous in principle, are trifling as to production. The obedient colonies in this scheme are heavily taxed; the refractory remain unburdened. What will you do? Will you lay new and heavier taxes by Parliament on the disobedient? Pray consider in what way you can do it. You are perfectly convinced that in the way of taxing you can do nothing but at the ports. Now suppose it is Virginia that refuses to appear at your auction, while Maryland and North Carolina bid handsomely for their ransom, and are taxed to your quota. How will you put these colonies on a par? Will you tax the tobacco of Virginia? If you do you give its death wound to your English revenue at home, and to one of the very greatest articles of your own foreign trade. If you tax the import of that rebellious colony, what do you tax but your own manufactures, or the goods of some other obedient and already well-taxed colony? Who has said one word on this labyrinth of detail, which bewilders you more and more as you enter into it? Who has presented, who can present you with a clew to lead you out of it? I think, sir, it is impossible that you should not recollect that the colony bounds are so implicated in one another (you know it by your own experiments in the bill for prohibiting the New England fishery) that you can lay no possible restraints on almost any of them which may not be presently eluded if you do not confound the innocent with the guilty, and burden those whom, upon every principle, you ought to exonerate. He must be grossly ignorant of America who thinks that, without falling into this confusion of all rules of equity and policy, you can restrain any single colony, especially Virginia and Maryland, the central and most important of them all.

Let it also be considered that either in the present confusion you settle a permanent contingent which will and must be trifling, and then you have no effectual revenue, or you change the quota at every exigency, and then on every new repartition you will have a new quarrel.

Reflect, besides, that, when you have fixed a quota for every colony you have not provided for prompt and punctual payment. Suppose one, two, five, ten years arrears. You cannot issue a Treasury Extent¹ against the failing colony. You must make

¹ A writ of commission for valuing real property to satisfy a Crown debt.

But what, says the financier, is peace to us without money? Your plan gives us no revenue. No! But it does—for it secures to the subject the power of REFUSAL—the first of all revenues. Experience is a cheat, and fact a liar, if this power in the subject of proportioning his grant, or of not granting at all, has not been found the richest mine of revenue ever discovered by the skill or by the fortune of man. It does not indeed vote you £152,750 11s. 2s. 4d., nor any other paltry limited sum, but it gives the strong box itself, the fund, the bank, from whence only revenues can arise among a people sensible of freedom: *Posita luditur arca*.¹

Cannot you in England; cannot you at this time of day; cannot you—a House of Commons—trust to the principle which has raised so mighty a revenue, and accumulated a debt of near one hundred and forty millions in this country? Is this principle to be true in England and false everywhere else? Is it not true in Ireland? Has it not hitherto been true in the colonies? Why should you presume that, in any country, a body duly constituted for any functions will neglect to perform its duty, and abdicate its trust? Such a presumption would go against all government in all modes. But in truth this dread of penury of supply from a free assembly has no foundation in nature. For first observe that, besides the desire, which all men have naturally, of supporting the honor of their own government, that sense of dignity and that security of property which ever attends freedom have a tendency to increase the stock of the free community. Most may be taken where most is accumulated. And what is the soil or climate where experience has not uniformly proved that the voluntary flow of heaped-up plenty, bursting from the weight of its own rich luxuriance, has ever run with a more copious stream of revenue than could be squeezed from the dry husks of oppressed indigence by the straining of all the politic machinery in the world?

I, for one, protest against compounding our demands. I declare against compounding, for a poor limited sum, the immense ever-growing, eternal debt which is due to generous government from protected freedom. And so may I speed in the great object I propose to you, as I think it would not only be an act of injustice, but would be the worst economy in the world, to compel the colonies to a sum certain, either in the way of ransom or in the way of compulsory compact.

But to clear up my ideas on this subject; a revenue from America transmitted hither—do not delude yourselves—you

¹ "The strong-box is staked."—Juvenal, satire 1.

new Boston Port bills, new restraining laws, new acts for dragging men to England for trial. You must send out new fleets, new armies. All is to begin again. From this day forward the empire is never to know an hour's tranquillity. An intestine fire will be kept alive in the bowels of the colonies which one time or another must consume this whole empire. I allow, indeed, that the empire of Germany raises her revenue and her troops by quotas and contingents; but the revenue of the empire, and the army of the empire, is the worst revenue and the worst army in the world.

Instead of a standing revenue you will therefore have a perpetual quarrel. Indeed, the noble lord who proposed this project of a ransom by auction seemed himself to be of that opinion. His project was rather designed for breaking the union of the colonies than for establishing a revenue. He confessed that he apprehended that his proposal would not be to *their taste*. I say this scheme of disunion seems to be at the bottom of the project; for I will not suspect that the noble lord meant nothing but merely to delude the nation by an airy phantom which he never intended to realize. But, whatever his views may be, as I propose the peace and union of the colonies as the very foundation of my plan, it cannot accord with one whose foundation is perpetual discord.

Compare the two. This I offer to give you is plain and simple. The other, full of perplexed and intricate mazes. This is mild; that harsh. This is found by experience effectual for its purposes; the other is a new project. This is universal; the other calculated for certain colonies only. This is immediate in its conciliatory operation; the other remote, contingent, full of hazard. Mine is what becomes the dignity of a ruling people; gratuitous, unconditional, and not held out as matter of bargain and sale. I have done my duty in proposing it to you. I have indeed tired you by a long discourse; but this is the misfortune of those to whose influence nothing will be conceded, and who must win every inch of their ground by argument. You have heard me with goodness. May you decide with wisdom! For my part, I feel my mind greatly disburdened by what I have done to-day. I have been the less fearful of trying your patience because on this subject I mean to spare it altogether in future. I have this comfort that, in every stage of the American affairs, I have steadily opposed the measures that have produced the confusion and may bring on the destruction of this empire. I now go so far as to risk a proposal of my own. If I cannot give peace to my country, I give it to my conscience.

never can receive it—no, not a shilling. We have experienced that from remote countries it is not to be expected. If, when you attempted to extract revenue from Bengal, you were obliged to return in loan what you had taken in imposition, what can you expect from North America—for certainly, if ever there was a country qualified to produce wealth, it is India; or an institution fit for the transmission, it is the East India Company. America has none of these aptitudes. If America gives you taxable objects on which you lay your duties *here*, and gives you at the same time a surplus by a foreign sale of her commodities to pay the duties on these objects which you tax at home, she has performed her part to the British revenue. But with regard to her own internal establishments she may, I doubt not she will, contribute in moderation; I say in moderation, for she ought not to be permitted to exhaust herself. She ought to be reserved to a war, the weight of which, with the enemies that we are most likely to have, must be considerable in her quarter of the globe. There she may serve you, and serve you essentially.

For that service, for all service, whether of revenue, trade, or empire, my trust is in her interest in the British constitution. My hold of the colonies is in the close affection which grows from common names, from kindred blood, from similar privileges, and equal protection. These are ties which, though light as air, are as strong as links of iron. Let the colonies always keep the idea of their civil rights associated with your government; they will cling and grapple to you, and no force under heaven will be of power to tear them from their allegiance. But let it be once understood that your government may be one thing, and their privileges another, that these two things may exist without any mutual relation, the cement is gone; the cohesion is loosened; and everything hastens to decay and dissolution. As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of liberty, the sacred temple consecrated to our common faith, wherever the chosen race and sons of England worship Freedom they will turn their faces toward you. The more they multiply the more friends you will have. The more ardently they love liberty the more perfect will be their obedience. Slavery they can have anywhere. It is a weed that grows in every soil. They may have it from Spain; they may have it from Prussia; but, until you become lost to all feeling of your true interest and your natural dignity, freedom they can have from none but you. This is the commodity of price of which you have the monopoly. This is the true Act of Navigation which binds to you the commerce of the colonies, and

through them secures to you the wealth of the world. Deny them this participation of freedom and you break that sole bond which originally made, and must still preserve, the unity of the empire. Do not entertain so weak an imagination as that your registers and your bonds, your affidavits and your sufferances, your cockets and your clearances, are what form the great securities of your commerce. Do not dream that your letters of office, and your instructions, and your suspending clauses, are the things that hold together the great contexture of this mysterious whole. These things do not make your government. Dead instruments, passive tools as they are, it is the spirit of the English communion that gives all their life and efficacy to them. It is the spirit of the English constitution which, infused through the mighty mass, pervades, feeds, unites, invigorates, vivifies every part of the empire, even down to the minutest member.

All this, I know well enough, will sound wild and chimerical to the profane herd of those vulgar and mechanical politicians who think that nothing exists but what is gross and material, and who, therefore, far from being qualified to be directors of the great movement of empire, are not fit to turn a wheel in the machine. But to men truly initiated these master principles are, in truth, all in all. Magnanimity in politics is not seldom the truest wisdom; and a great empire and little minds go ill together.

If we are conscious of our situation, and glow with zeal to fill our place as becomes our station and ourselves, we ought to auspicate all our public proceeding on America with the old warning of the church, *sursum corda*! We ought to elevate our minds to the greatness of that trust to which the order of Providence has called us. By adverting to the dignity of this high calling our ancestors have turned a savage wilderness into a glorious empire, and have made the most extensive and the only honorable conquests, not by destroying, but by promoting, the wealth, the number, the happiness of the human race. Let us get an American revenue as we have got an American empire. English privileges have made it all that it is; English privileges alone will make it all it can be.

In full confidence of this unalterable truth I now, *quod felix faustumque sit*,¹ lay the first stone in the temple of peace; and I move you the first of my propositions.

¹ "Lift up your hearts."

² "May it be happy and auspicious," the Roman invocation at the inauguration of new enterprises, such as the founding of a temple.



176A98

When fell Debate & civil Wars shall cease,
Commerce shall spread her Sails o'er all the Seas.
ENGLAND, unrivaled in the liberal Arts,
Shall bear her Genius to remotest Parts.
Take to thy Breast AMERICA again,
Thou may'st defy imperious FRANCE & SPAIN.

Frontispiece to the "London Magazine," 1775

This was defeated, 270 votes to 78. The others were not put to vote, since it was apparent that Parliament was determined at all costs to assert supremacy over the colonies. Later, when the war that resulted from this determination had fully justified all his predictions of dishonor to British arms, Burke thus commented upon the disastrous obstinacy of the Government:

THE RIGHT TO TAX AMERICA

EDMUND BURKE

But, Mr. Speaker, "we have a right to tax America." Oh, inestimable right! Oh, wonderful, transcendent right! the assertion of which has cost this country thirteen provinces, six islands, one hundred thousand lives, and seventy millions of money. Oh, invaluable right! for the sake of which we have sacrificed our rank among nations, our importance abroad, and our happiness at home! Oh, right! more dear to us than our existence, which has already cost us so much, and which seems likely to cost us our all. Infatuated man! Miserable and undone country! not to know that the claim of right, without the power of enforcing it, is nugatory and idle. We have a right to tax America, the noble lord tells us, therefore we ought to tax America. This is the profound logic which comprises the whole chain of his reasoning.

Not inferior to this was the wisdom of him who resolved to shear the wolf. What, shear a wolf! Have you considered the resistance, the difficulty, the danger of the attempt? No, says the madman, I have considered nothing but the right. Man has a right of dominion over the beasts of the forest; and therefore I will shear the wolf.

How wonderful that a nation could be thus deluded! But the noble lord deals in cheats and delusions. They are the daily traffic of his invention; and he will continue to play off his cheats on this House, so long as he thinks them necessary to his purpose, and so long as he has money enough at command to bribe gentlemen to pretend that they believe him. But a black and bitter day of reckoning will surely come; and whenever the day comes I trust I shall be able, by a parliamentary impeachment, to bring upon the heads of the authors of our calamities the punishment they deserve.

CHAPTER V

COLONIES VS. PARLIAMENT

Speech of James Wilson: "In Vindication of the Colonies"—The Virginia Convention; Resolutions of Patrick Henry to Adopt Defensive Measures: they are opposed by Richard Bland, Benjamin Harrison, Robert Carter Nicholas and Edmund Pendleton; they are supported by Henry in his Speech "Liberty or Death!"—Preparations for Armed Defence—The Battle of Lexington and Concord—"Appeal to the British People by the Massachusetts Convention"—The Second Continental Congress—Address to the British People (drafted by Richard Henry Lee)—Congress Rejects Lord North's Plan of Conciliation—George Washington Appointed Commander-in-Chief of the Army—Washington's Speech of Acceptance—"Declaration to the World" by Congress (drafted by John Dickinson)—Preparations for Defence—Repressive Acts of Parliament.

IN January, 1775, a convention of the province of Pennsylvania met at Philadelphia to take action on the King's speech at the opening of Parliament (see page 99).

A prominent member of this convention was James Wilson, a man to whom the country was afterwards to be largely indebted for his influential part in the formation of its constitution.

He delivered the following speech before the convention:

IN VINDICATION OF THE COLONIES

JAMES WILSON

MR. CHAIRMAN—Whence, sir, proceeds all the invidious and ill-grounded clamor against the colonists of America? Why are they stigmatized in Britain, as licentious and ungovernable? Why is their virtuous opposition to the illegal attempts of their governors represented under the falsest colors, and placed in the most ungracious point of view? This opposition, when exhibited in its true light, and when viewed, with unjaundiced eyes, from a proper situation, and at a proper distance, stands

confessed the lovely offspring of freedom. It breathes the spirit of its parent. Of this ethereal spirit the whole conduct, and particularly the late conduct of the colonists, has shown them eminently possessed. It has animated and regulated every part of their proceedings. It has been recognized to be genuine by all those symptoms and effects by which it has been distinguished in other ages and other countries. It has been calm and regular: it has not acted without occasion: it has not acted disproportionately to the occasion. As the attempts, open or secret, to undermine or to destroy it have been repeated or enforced, in a just degree its vigilance and its vigor have been exerted to defeat or to disappoint them. As its exertions have been sufficient for those purposes hitherto let us hence draw a joyful prognostic that they will continue sufficient for those purposes hereafter. It is not yet exhausted; it will still operate irresistibly whenever a necessary occasion shall call forth its strength.

Permit me, sir, by appealing, in a few instances, to the spirit and conduct of the colonists, to evince that what I have said of them is just. Did they disclose any uneasiness at the proceedings and claims of the British Parliament, before those claims and proceedings afforded a reasonable cause for it? Did they even disclose any uneasiness when a reasonable cause for it was first given? Our rights were invaded by their regulations of our internal policy. We submitted to them: we were unwilling to oppose them. The spirit of liberty was slow to act. When those invasions were renewed; when the efficacy and malignancy of them were attempted to be redoubled by the Stamp Act; when chains were formed for us; and preparations were made for riveting them on our limbs, what measures did we pursue? The spirit of liberty found it necessary now to act: but she acted with the calmness and decent dignity suited to her character. Were we rash or seditious? Did we discover want of loyalty to our Sovereign? Did we betray want of affection to our brethren in Britain? Let our dutiful and reverential petitions to the Throne—let our respectful, though firm, remonstrances to the Parliament—let our warm and affectionate addresses to our brethren, and (we will still call them) our friends in Great Britain—let all those, transmitted from every part of the continent, testify the truth. By their testimony let our conduct be tried.

As our proceedings, during the existence and operation of the Stamp Act, prove fully and incontestably the painful sensations that tortured our breasts from the prospect of disunion

to store it up, or to send it back, as was done at other places. A number of persons, unknown, destroyed it.

Let us here make a concession to our enemies; let us suppose that the transaction deserves all the dark and hideous colors in which they have painted it; let us even suppose (for our cause admits of an excess of candor) that all their exaggerated accounts of it were confined strictly to the truth: what will follow? Will it follow that every British colony in America, or even the colony of Massachusetts Bay, or even the town of Boston, in that colony, merits the imputation of being factious and seditious? Let the frequent mobs and riots that have happened in Great Britain upon much more trivial occasions shame our calumniators into silence. Will it follow, because the rules of order and regular government were, in that instance, violated by the offenders, that, for this reason, the principles of the constitution, and the maxims of justice, must be violated by their punishment? Will it follow, because those who were guilty could not be known, that, therefore, those who were known not to be guilty must suffer? Will it follow that even the guilty should be condemned without being heard—that they should be condemned upon partial testimony, upon the representations of their avowed and embittered enemies? Why were they not tried in courts of justice, known to their constitution, and by juries of their neighborhood? Their courts and their juries were not, in the case of Captain Preston,¹ transported beyond the bounds of justice by their resentment: why, then, should it be presumed that, in the case of those offenders, they would be prevented from doing justice by their affection? But the colonists, it seems, must be stripped of their judicial, as well as of their legislative, powers. They must be bound by a legislature, they must be tried by a jurisdiction, not their own. Their constitutions must be changed: their liberties must be abridged: and those who shall be most infamously active in changing their constitutions and abridging their liberties must, by an express provision, be exempted from punishment.

I do not exaggerate the matter, sir, when I extend these observations to all the colonists. The Parliament meant to extend the effects of their proceedings to all the colonists. The plan on which their proceedings are formed extends to them all. From an incident of no very uncommon or atrocious nature, which happened in one colony, in one town in that colony, and in which only a few of the inhabitants of that town took a part, an occasion has been taken by those who probably intended it,

¹ Charged with murder in the Boston "Massacre."

with Britain; the peals of joy, which burst forth universally, upon the repeal of that odious statute, loudly proclaim the heartfelt delight produced in us by a reconciliation with her. Unsuspecting, because undesigned, we buried our complaints and the causes of them in oblivion, and returned, with eagerness, to our former unreserved confidence. Our connection with our parent country, and the reciprocal blessings resulting from it to her and to us, were the favorite and pleasing topics of our public discourses and our private conversations. Lulled in delightful security, we dreamed of nothing but increasing fondness and friendship, cemented and strengthened by a kind and perpetual communication of good offices. Soon, however, too soon, we were awakened from the soothing dreams! Our enemies renewed their designs against us, not with less malice, but with more art. Under the plausible pretence of regulating our trade, and, at the same time, of making provision for the administration of justice and the support of government, in some of the colonies, they pursued their scheme of depriving us of our property without our consent. As the attempts to distress us, and to degrade us to a rank inferior to that of freemen, appeared now to be reduced into a regular system, it became proper, on our part, to form a regular system for countering them. We ceased to import goods from Great Britain. Was this measure dictated by selfishness or by licentiousness? Did it not injure ourselves, while it injured the British merchants and manufacturers? Was it inconsistent with the peaceful demeanor of subjects to abstain from making purchases, when our freedom and our safety rendered it necessary for us to abstain from them? A regard for our freedom and our safety was our only motive; for no sooner had the Parliament, by repealing part of the revenue laws, inspired us with the flattering hopes that they had departed from their intentions of oppressing and of taxing us, than we forsook our plan for defeating those intentions, and began to import as formerly. Far from being peevish or captious, we took no public notice even of their declaratory law of dominion over us: our candor led us to consider it as a decent expedient of retreating from the actual exercise of that dominion.

But, alas! the root of bitterness still remained. The duty on tea was reserved to furnish occasion to the ministry for a new effort to enslave and to ruin us; and the East India Company were chosen, and consented to be the detested instruments of ministerial despotism and cruelty. A cargo of their tea arrived at Boston. By a low artifice of the governor, and by the wicked activity of the tools of government, it was rendered impossible

and who certainly prepared the way for it, to impose upon that colony, and to lay a foundation and a precedent for imposing upon all the rest, a system of statutes, arbitrary, unconstitutional, oppressive, in every view, and in every degree subversive of the rights, and inconsistent with even the name of freemen.

Were the colonists so blind as not to discern the consequences of these measures? Were they so supinely inactive as to take no steps for guarding against them? They were not. They ought not to have been so. We saw a breach made in those barriers which our ancestors, British and American, with so much care, with so much danger, with so much treasure, and with so much blood had erected, cemented, and established for the security of their liberties, and—with filial piety let us mention it—of ours. We saw the attack actually begun upon one part: ought we to have folded our hands in indolence, to have lulled our eyes in slumbers, till the attack was carried on, so as to become irresistible in every part? But still our measures have been such as the spirit of liberty and of loyalty directed; not such as a spirit of sedition or of disaffection would pursue. Our counsels have been conducted without rashness and faction: our resolutions have been taken without frenzy or fury.

That the sentiments of every individual concerning that important object, his liberty, might be known and regarded meetings have been held and deliberations carried on in every particular district. That the sentiments of all those individuals might gradually and regularly be collected into a single point, and the conduct of each inspired and directed by the result of the whole united; county committees, provincial conventions, a Continental Congress have been appointed, have met and resolved. By this means a chain—more inestimable, and, while the necessity for it continues, we hope, more indissoluble than one of gold—a chain of freedom has been formed, of which every individual in these colonies who is willing to preserve the greatest of human blessings, his liberty, has the pleasure of beholding himself a link.

Are these measures, sir, the brats of disloyalty, of disaffection? There are miscreants among us, wags that suck poison from the most salubrious flowers, who tell us they are. They tell us that all those assemblies are unlawful, and unauthorized by our constitutions; and that all their deliberations and resolutions are so many transgressions of the duty of subjects. The utmost malice brooding over the utmost baseness, and nothing but such a hated commixture must have hatched this calumny. Do not those men know—would they have others not to know—

that it was impossible for the inhabitants of the same province, and for the legislatures of the different provinces, to communicate their sentiments to one another in the modes appointed for such purposes, by their different constitutions? Do not they know—would they have others not to know—that all this was rendered impossible by those very persons who now, or whose minions now, urge this objection against us? Do not they know—would they have others not to know—that the different assemblies, who could be dissolved by the governors, were, in consequence of ministerial mandates, dissolved by them whenever they attempted to turn their attention to the greatest objects which, as guardians of the liberty of their constituents, could be presented to their view? The arch enemy of the human race torments them only for those actions to which he has tempted, but to which he has not necessarily obliged them. Those men refine even upon infernal malice: they accuse, they threaten us (superlative impudence!) for taking those very steps which we were laid under the disagreeable necessity of taking by themselves, or by those in whose hateful service they are enlisted.

As the invasions of our rights have become more and more formidable our opposition to them has increased in firmness and vigor, in a just, and in no more than a just, proportion. We will not import goods from Great Britain or Ireland; in a little time we will suspend our exportations to them; and, if the same illiberal and destructive system of policy be still carried on against us, in a little time more we will not consume their manufactures. In that colony where the attacks have been most open, immediate, and direct some further steps have been taken, and those steps have met with the deserved approbation of the other provinces.

Is this scheme of conduct allied to rebellion? Those who would blend, and whose crimes have made it necessary for them to blend, the tyrannic acts of administration with the lawful measures of government, and to veil every flagitious procedure of the ministry under the venerable mantle of majesty, pretend to discover, and employ their emissaries to publish the pretended discovery of such symptoms. We are not, however, to be imposed upon by such shallow artifices. No! we have not violated the laws or the constitution; and, therefore, we are safe as long as the laws retain their force and the constitution its vigor.

But we behold, sir, with the deepest anguish that our opposition has not been as effectual as it has been constitutional. The hearts of our oppressors have not relented; our complaints have not been heard; our grievances have not been redressed; our

rights are still invaded: and have we no cause to dread that the invasions of them will be enforced, in a manner against which all reason and argument, and all opposition, of every peaceful kind, will be vain? Our opposition has hitherto increased with our oppression: shall it, in the most desperate of all contingencies, observe the same proportion?

Let us pause, sir, before we give an answer to this question. The fate of us; the fate of millions now alive; the fate of millions yet unborn, depends upon the answer. Let it be the result of calmness and intrepidity; let it be dictated by the principles of loyalty, and the principles of liberty. Let it be such as never, in the worst events, to give us reason to reproach ourselves, or others reason to reproach us, for having done too much or too little.

Perhaps the following resolution may be found not altogether unbefitting our present situation. With the greatest deference I submit it to the mature consideration of this assembly:

"That the act of the British Parliament for altering the charter and constitution of the colony of Massachusetts Bay, and those 'for the impartial administration of justice' in that colony, for shutting the port of Boston, and for quartering soldiers on the inhabitants of the colonies, are unconstitutional and void; and can confer no authority upon those who act under color of them. That the Crown cannot, by its prerogative, alter the charter or constitution of that colony: that all attempts to alter the said charter or constitution, unless by the authority of the legislature of that colony, are manifest violations of the rights of that colony, and illegal: that all force employed to carry such unjust and illegal attempts into execution is force without authority: that it is the right of British subjects to resist such force: that this right is founded both upon the letter and the spirit of the British constitution."

Our claim rests upon plain and indubitable truths. We do not send members to the British Parliament: we have parliaments (it is immaterial what name they go by) of our own. That a void act can confer no authority upon those who proceed under color of it is a self-evident proposition.

We can be at no loss in resolving that the King cannot, by his prerogative, alter the charter or constitution of the colony of Massachusetts Bay. Upon what principle could such an exertion of prerogative be justified? On the acts of Parliament? They are already proved to be void. On the discretionary power which the King has of acting where the laws are silent? That power must be subservient to the interest and happiness of those

concerning whom it operates. But I go further. Instead of being supported by law, or the principles of prerogative, such an alteration is totally and absolutely repugnant to both. It is contrary to express law. The charter and constitution we speak of are confirmed by the only legislative power capable of confirming them; and no other power but that which can ratify can destroy. If it is contrary to express law the consequence is necessary that it is contrary to the principles of prerogative; for prerogative can operate only when the law is silent.

In no view can this alteration be justified, or so much as excused. It cannot be justified or excused by the acts of Parliament; because the authority of Parliament does not extend to it: it cannot be justified or excused by the operation of prerogative; because this is none of the cases in which prerogative can operate: it cannot be justified or excused by the legislative authority of the colony; because that authority never has been, and, I presume, never will be, given for any such purpose.

I will now advance a step further and say that all attempts to alter the charter or constitution of any colony, unless by the authority of its own legislature, are violations of its rights, and illegal.

If such attempts are illegal, must not all force, employed to carry them into execution, be force employed against law, and without authority? The conclusion is unavoidable.

Have not British subjects, then, a right to resist such force—force acting with authority—force employed contrary to law—force employed to destroy the very existence of law and of liberty? They have, sir; and this right is secured to them both by the letter and the spirit of the British constitution, by which the measures and the conditions of their obedience are appointed. The British liberties, sir, and the means and the right of defending them, are not the grants of princes; and of what our princes never granted they surely can never deprive us.

"Id rex potest," says the law, *"quod de jure potest."* "The king's power is a power according to law." His commands, if the authority of Lord Chief Justice Hale may be depended upon, are under the directive power of the law; and consequently invalid, if unlawful. "Commissions," says my Lord Coke, "are legal, and are like the king's writs; and none are lawful but such as are allowed by the common law, or warranted by some act of Parliament."

Let us examine any commission expressly directing those to whom it is given to use military force for carrying into execution the alterations proposed to be made in the charter and con-

stitution of Massachusetts Bay by the foregoing maxims and authorities; and what we have said concerning it will appear obvious and conclusive. It is not warranted by any act of Parliament, because, as has been mentioned on this, and has been proved on other occasions, any such act is void. It is not warranted, and I believe it will not be pretended that it is warranted, by the common law. It is not warranted by the royal prerogative, because, as has already been fully shown, it is diametrically opposite to the principles and the ends of prerogative. Upon what foundation, then, can it lean and be supported? Upon none. Like an enchanted castle, it may terrify those whose eyes are affected by the magic influence of the sorcerers, despotism and slavery; but so soon as the charm is dissolved, and the genuine rays of liberty and of the constitution dart in upon us, the formidable appearance vanishes, and we discover that it was the baseless fabric of a vision that never had any real existence.

And now, sir, let me appeal to the impartial tribunal of reason and truth; let me appeal to every unprejudiced and judicious observer of the laws of Britain and of the constitution of the British government; let me appeal, I say, whether the principles on which I argue, or the principles on which alone my arguments can be opposed, are those which ought to be adhered to and acted upon; which of them are most consonant to our laws and liberties; which of them have the strongest, and are likely to have the most effectual tendency to establish and secure the royal power and dignity.

BRITISH GOVERNMENT PROHIBITS SECOND CONGRESS

The New York Assembly met in January, 1775, and endorsed the Bill of Rights adopted by the Congress at Philadelphia, and prepared petitions to the King, Lords, and Commons, disapproving "of the violent measures that had been pursued in some of the colonies," and claiming an exemption from *internal taxation* and the exclusive right of providing for the support of their own civil government and the administration of justice as their undoubted and inalienable rights as Englishmen.

When the petition of the Assembly was presented to the House of Commons a hearing was refused it because it denied or called in question the right of Parliament to tax the colonies. A circular letter was

sent by the British Secretary of State to the colonial governors forbidding the election of delegates to the Congress in May, 1775, which had been determined upon by the Congress of 1774.

Notwithstanding this royal recommendation delegates were chosen from all the colonies to attend the Congress.

THE VIRGINIA CONVENTION

The leading spirit of the provincial convention of Virginia which met in Richmond March, 1775, to choose delegates to the May Congress was Patrick Henry.

His speech before the convention displayed an increase of his boldness of spirit. It is the most declamatory of all his orations, and therefore has become the most popular, being recited by generations of American schoolboys. It has been called "Patrick Henry's individual declaration of war against Great Britain." It was upon the following resolutions which he had proposed to the convention:

1. *Resolved:* That a well regulated militia, composed of gentlemen and yeomen, is the natural strength and only security of a free government; that such a militia in this colony would forever render it unnecessary for the mother country to keep among us, for the purpose of our defence, any standing army or mercenary forces, always subversive of the quiet and dangerous to the liberties of the people, and would obviate the pretext of taxing us for their support.

2. That such a militia is at this time especially necessary to protect our rights and liberties, which have been rendered insecure by the remissness of government in calling our Legislature together.

3. That this colony be immediately put into a posture of defence.

These resolutions precipitated an animated debate in which they were opposed as premature by Colonels Richard Bland and Benjamin Harrison, and Robert Carter Nicholas and Edmund Pendleton. Mr. Henry stood alone in their support.

The oration was delivered in the "Old Church" at

not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst and to provide for it.

I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging of the future but by the past. And, judging by the past, I wish to know what there has been in the conduct of the British Ministry for the last ten years to justify those hopes with which gentlemen have been pleased to solace themselves and the House? Is it that insidious smile with which our petition has been lately received? Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with these warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort. I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlemen assign any other possible motives for it? Has Great Britain any enemy in this quarter of the world to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us; they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British Ministry have been so long forging. And what have we to oppose to them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we anything new to offer on the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves longer. Sir, we have done everything that could be done to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne. In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be

Richmond. One who heard the speech thus describes the scene:

"Henry rose with an unearthly fire burning in his eye. He commenced somewhat calmly, but the smothered excitement began more and more to play upon his features and thrill in the tones of his voice. The tendons of his neck stood out white and rigid like whiplashes. His voice rose louder and louder, until the walls of the building, and all within them, seemed to shake and rock in its tremendous vibrations. Finally his pale face and glaring eyes became terrible to look upon. Men leaned forward in their seats, with their heads strained forward, their faces pale, and their eyes glaring like the speaker's. His last exclamation, 'Give me liberty or give me death!' was like the shout of the leader which turns back the rout of battle."¹

LIBERTY OR DEATH!

PATRICK HENRY

MR. PRESIDENT.—No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the House. But different men often see the same subject in different lights; and, therefore, I hope that it will not be thought disrespectful to those gentlemen if, entertaining, as I do, opinions of a character very opposite to theirs, I shall speak forth my sentiments freely and without reserve. This is no time for ceremony. The question before the House is one of awful moment to this country. For my own part I consider it as nothing less than a question of freedom or slavery; and in proportion to the magnitude of the subject ought to be the freedom of the debate. It is only in this way that we can hope to arrive at truth, and fulfil the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time, through fear of giving offence, I should consider myself as guilty of treason toward my country, and of an act of disloyalty toward the majesty of heaven, which I revere above all earthly kings.

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth, and listen to the song of that siren, till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those who, having eyes, see not, and, having ears, hear

¹ From Tyler's "Life of Patrick Henry."

free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained, we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of Hosts is all that is left us!

They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance by lying supinely on our backs, and bugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of the means which the God of nature hath placed in our power. Three millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations; and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come!

It is in vain, sir, to extenuate the matter. Gentlemen may cry peace, peace—but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but, as for me, give me liberty, or give me death!

In pursuance of Henry's resolution a committee was appointed to present a plan of armed defence of Virginia. On it were appointed, among others, Henry, George Washington, Thomas Jefferson and Richard Henry Lee.



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tence of easing the nation of its burdens; measures which, if successful, must end in the ruin and slavery of Britain, as well as the persecuted American colonies.

We sincerely hope that the great sovereign of the Universe, who hath so often appeared for the English nation, will support you in every rational and manly exertion with these colonies for saving us from ruin; and that in a constitutional connection with the mother country we shall soon be altogether a free and happy people.

SECOND CONTINENTAL CONGRESS

The second Continental Congress convened according to arrangement on May 10, 1775. It met in the state house (now Independence Hall). Dr. Benjamin Franklin, who had returned from England, was added to the Pennsylvania delegation.

John Hancock, the proscribed patriot, was elected President on May 24, in place of Peyton Randolph, who had been obliged to return to Virginia by ill health.

The beginning of hostilities in Massachusetts received the immediate attention of Congress. They unanimously determined that the colonies be placed in a state of defence, so that Parliament might not carry their several unconstitutional and oppressive acts into execution by force of arms. But Congress still expressed an ardent wish for a restoration of former harmony, and accordingly resolved to present another petition to the King. This petition was written by John Dickinson, who had penned the one to His Majesty in the first Congress. This Congress also addressed the people of Great Britain and the province of Quebec, and it sent an address to the inhabitants of Ireland, and a letter to those of the island of Jamaica. The address to the British people was prepared by a committee which consisted of Richard Henry Lee, Robert R. Livingston, and Edmund Randolph. To Mr. Lee may be credited its language.

ADDRESS TO THE BRITISH PEOPLE

The endearing appellation of "friends, countrymen, and brethren" was used toward the people of Great Britain, and they were entreated by these *ties* seriously

The "next gale that swept from the North" did indeed bear "the clash of resounding arms—the news of Lexington and Concord (April 19). Ere it reached Virginia all New England was in arms, and thousands of the patriots were moving toward the scene of action, led by such veterans of the French War as Israel Putnam of Connecticut.

The provincial Congress of Massachusetts immediately resolved that an army of thirteen thousand men should be raised and the other New England colonies were requested to furnish an additional number for the defence of the country. The treasurer was directed to borrow £100,000 for the use of the province, and they declared that the citizens were no longer under any obligations of obedience to Governor Gage.

The provincial Congress also sent at once to Dr. Franklin, their agent in England, an address to the people of Great Britain in which they gave an account of the beginning of hostilities and added:

APPEAL TO THE BRITISH PEOPLE

BY MASSACHUSETTS

These, brethren, are marks of ministerial vengeance against this colony for refusing, with her sister colonies, a submission to slavery; but they have not yet detached us from our royal sovereign. We profess to be his loyal and dutiful subjects, and so hardly dealt with as we have been are still ready with our lives and fortunes to defend his person, family, crown, and dignity. Nevertheless, to the persecution and tyranny of his cruel ministry we will not tamely submit; appealing to heaven for the justice of our cause, we determine to die or be free.

We cannot think that the honor, wisdom, and valor of Britons will suffer them to be long inactive spectators of measures in which they themselves are so deeply interested; measures pursued in opposition to the solemn protest of many noble lords and expressed sense of conspicuous commoners, whose knowledge and virtue have long characterized them as some of the greatest men in the nation; measures executing contrary to the interest, petitions, and resolves of many large, respectable, and opulent counties, cities, and boroughs in Great Britain; measures highly incompatible with justice, but still pursued with a specious pre-

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to attend to the second attempt of Congress to prevent their dissolution.

After again recapitulating former injuries and stating the recent acts of hostility by the wanton destruction of their lives, as well as property, they seriously ask:

Whether the descendants of Britons could tamely submit to this? "No," they add, "we never will—while we revere the memory of our gallant and virtuous ancestors, we never can surrender those glorious privileges, for which they fought, bled, and conquered." "Admit," they tell them, "that your fleets and armies can destroy our towns, and ravage our coasts; these are inconsiderable objects, things of no moment to men whose bosoms glow with the ardor of liberty. We can retire beyond the reach of your navy and, without any sensible diminution of the necessities of life, enjoy a luxury, which, from that period, you will want, the luxury of being free." They again repel the charge of aiming at independence.

"Our enemies charge us with sedition. In what does it consist? In our refusal to submit to unwarrantable acts of injustice and cruelty? If so, show us a period in your history in which you have not been equally seditious.

"We are accused of aiming at independence; but how is this accusation supported? By the allegations of your ministers, not by our actions. Abused, insulted, and condemned, what steps have we pursued to obtain redress? We have carried our dutiful petitions to the throne. We have applied to your justice for relief. We have retrenched our luxury, and withheld our trade.

"The advantages of our commerce were designed as a compensation for your protection: when you ceased to protect, for what were we to compensate?

"What has been the success of our endeavors? The clemency of our sovereign is unhappily diverted; our petitions are treated with indignity; our prayers answered by insults. Our application to you remains unnoticed, and leaves us the melancholy apprehension of your wanting either the will or the power to assist us.

"Even under these circumstances, what measures have we taken that betray a desire of independence? Have we called in the aid of those foreign powers who are the rivals of your grandeur? When your troops were few and defenceless, did we take advantage of their distress and expel them our towns? Or have we permitted them to fortify, to receive new aid, and to acquire additional strength?

"Let your enemies and ours persuade you that in this we were influenced by fear or any other unworthy motive. The lives of Britons are still dear to us. They are the children of our parents, and an uninterrupted intercourse of mutual benefits had knit the bonds of friendship. When hostilities were commenced, when, on a late occasion we were wantonly attacked by your troops, though we repelled their assaults and returned their blows, yet we lamented the wounds they obliged us to give; nor have we yet learned to rejoice at a victory over Englishmen.

"As we wish not to color our actions, or disguise our thoughts, we shall, in the simple language of truth, avow the measures we have pursued, the motives upon which we have acted, and our future designs.

"When our late petition to the throne produced no other effect than fresh injuries, and votes of your legislature, calculated to justify every severity; when your fleets and your armies were prepared to wrest from us our property, to rob us of our liberties or our lives; when the hostile attempts of General Gage evinced his designs, we levied armies for our security and defence. When the powers vested in the governor of Canada gave us reason to apprehend danger from that quarter; and we had frequent intimations that a cruel and savage enemy was to be let loose upon the defenceless inhabitants of our frontiers; we took such measures as prudence dictated, as necessity will justify. We possessed ourselves of Crown Point and Ticonderoga. Yet, give us leave most solemnly to assure you, that, we have not lost sight of the object we have ever had in view: a reconciliation with you on constitutional principles, and a restoration of that friendly intercourse which, to the advantage of both, we till lately maintained."

After reminding them that the loss of liberty in America would be only a prelude to its loss in Great Britain, they conclude: "A cloud hangs over your head and ours—are this reaches you it may probably burst upon us; let us, then (before the remembrance of former kindness is obliterated), once more repeat these appellations, which are ever grateful to our ears; let us entreat heaven to avert our ruin and the destruction that threatens our friends, brethren, and countrymen on the other side of the Atlantic."

REJECTION OF LORD NORTH'S PLAN OF CONCILIATION

Congress referred the conciliatory plan of Lord North to a committee consisting of Dr. Franklin, Thomas

the extensive and important trust. However, as the Congress desire it, I will enter upon the momentous duty and exert every power I possess in their service, and for the support of the glorious cause. I beg they will accept my most cordial thanks for this distinguished testimony of their approbation.

"But, lest some unlucky event should happen unfavorable to my reputation, I beg it may be remembered by every gentleman in the room that I this day declare with the utmost sincerity I do not think myself equal to the command I am honored with.

"As to pay, sir, I beg leave to assure the Congress that, as no pecuniary consideration could have tempted me to accept this arduous employment at the expense of my domestic ease and happiness, I do not wish to make any profit from it. I will keep an exact account of my expenses. These, I doubt not, they will discharge, and that is all I desire."

On the 6th of July Congress declared to the world the causes which led them to take up arms.

DECLARATION TO THE WORLD

BY CONGRESS

Having stated the various acts of the British Parliament in violation of their rights, and the hostile proceedings of the Administration to enforce them, they observed:

"We are reduced to the alternative of choosing between unconditional submission to the tyranny of irritated ministers or resistance by force. The latter is our choice. We have counted the cost of this contest, and find nothing so dreadful as voluntary slavery. Honor, justice, and humanity forbid us tamely to surrender that freedom which we received from our gallant ancestors; and which our innocent posterity have a right to receive from us. We cannot endure the infamy and guilt of resigning succeeding generations to that wretchedness which inevitably awaits them if we basely entail hereditary bondage upon them.

"Our cause is just—our union is perfect—our internal resources are great, and, if necessary, foreign assistance is undoubtedly attainable. We gratefully acknowledge, as signal instances of the divine favor toward us, that His providence would

Jefferson, John Adams, and Richard Henry Lee, and in accordance with their report rejected the plan as unreasonable, insidious, and unsatisfactory.

Congress claimed the right of the colonies to give their own money to the empire, and to designate how it should be expended, and refused to accept the remission of taxes when this was conditioned upon contributions. They also objected to the proposal because it was "borne on the point of the bayonet by military plenipotentiaries." Besides, they said, the British monopolization of colonial trade already laid them "under heavy contribution."

Congress further objected to the "intermeddling" of Parliament with the civil government or administration of justice in the colonies.

They rejected the plan, also, because it gave no redress of the other grievances of the colonies as presented in the petition of the first Congress, and because Parliament was adding to these by prohibiting the New England fisheries, and by interdicting intercolonial as well as foreign trade.

They went so far as to question the good faith of the proposition, as intended "to lull into fatal security" the friends of the colonies in Great Britain, while the ministry prepared suddenly to reduce "the 'cowardly' sons of America to unreserved submission," as Lord North had presaged in a former speech, and as the actions of the British Government in Massachusetts and the preparations of armaments of the British Government in Massachusetts and the preparations of armaments for America indicated was the intention.

Therefore, said Congress, "when these things are laid together . . . can the world be deceived into an opinion that we are unreasonable, or can it hesitate to believe us, that nothing but our own exertions may defeat the ministerial sentence of death or abject submission?"

Congress then proceeded to organize an army for defence. George Washington was unanimously chosen commander-in-chief, which appointment he accepted with his characteristic modesty in the following address to the president:

"Though I am truly sensible of the high honor done me in this appointment, yet I feel great distress from a consciousness that my abilities and military experience may not be equal to

not permit us to be called into this severe controversy until we were grown to our present strength, had been previously exercised in warlike operations, and possessed of the means of defending ourselves. With hearts fortified with these animating reflections we most solemnly, before God and the world, declare that, exerting the utmost energy of those powers which the beneficent Creator hath graciously bestowed upon us, the arms we have been compelled by our enemies to assume, we will, in defiance of every hazard, with unabating firmness and perseverance, employ for the preservation of our liberties; being with one mind resolved to die freemen rather than to live slaves. Lest this declaration shall disquiet the minds of our friends and fellow subjects in any part of the empire, we assure them that we mean not to dissolve that union which has so long and so happily subsisted between us, and which we sincerely wish to see restored. Necessity has not yet driven us to that desperate measure, or induced us to excite any other nation to war against them. We have not raised armies with ambitious designs of separating from Great Britain and establishing independent states. We fight not for glory or for conquest. We exhibit to mankind the remarkable spectacle of a people attacked by unprovoked enemies without any imputation or even suspicion of offence. They boast of their privileges and civilization, and yet proffer no milder conditions than servitude or death. In our own native land, in defence of the freedom that is our birthright, and which we ever enjoyed till the late violation of it, for the protection of our property, acquired solely by the honest industry of our forefathers and ourselves, against violence actually offered we have taken up arms. We shall lay them down when hostilities shall cease on the part of the aggressors and all danger of their being renewed, and not before.

"With an humble confidence in the mercies of the supreme and impartial judge and ruler of the universe we most devoutly implore His divine goodness to protect us happily through this great conflict, to dispose our adversaries to reconciliation on reasonable terms and thereby relieve the empire from the calamities of civil war."

This was drawn by John Dickinson.

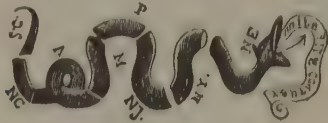
On the recommendation of the New York delegates, as instructed by their provincial convention, Congress issued paper currency to be discharged proportionately by the colonies, the united colonies to pay that part which any colony should fail to discharge.

On the first of August Congress adjourned to meet on the fifth of September.

The capture of Ticonderoga by Ethan Allen and Benedict Arnold early in May, 1775, the brave defence of Bunker (or Breed's) Hill by the raw New England militia in June, and the investment of the British troops in Boston by General Washington which followed, infused great hope in the patriots.

ACTS OF CONGRESS

At the next meeting of Congress in September delegates from Georgia were present, and the name of "The



JOIN or DIE

A common newspaper heading in 1776; devised by Franklin in May, 1754, at the beginning of the French War

Thirteen United Colonies" was chosen to designate the country. A national navy was established and authority given to private persons to capture ships of the enemy.

The first military movement decided upon was the conquest of Canada. The invading force under Richard Montgomery and Benedict Arnold was repulsed at Quebec with the death of Montgomery.

At the request of the people of New Hampshire, South Carolina, and Virginia, Congress advised them in the formation of provisional governments to be terminated when Great Britain and the colonies should be reconciled.

REPRESSIVE ACTS OF PARLIAMENT

In his speech at the opening of Parliament in October, 1775, the King ignored the petition to him by Congress, and advocated extensive military operations in which

CHAPTER VI

COLONIES VS. THE CROWN

[SPEECHES AND DEBATES ON THE DECLARATION OF INDEPENDENCE]

The Mecklenburgh [N. C.] Declaration of Independence—"Common Sense," by Thomas Paine [Pa.]—Judge William Henry Drayton's Charge to the Grand Jury of Charleston, S. C.: "America Creanted to Be Free"—Declaration of Rights by Virginia (drafted by George Mason)—Resolution of Independence Introduced in Congress by Richard Henry Lee [Va.]—Thomas Jefferson's Report of the Debate on Lee's Resolution: In favor, Lee, John Adams [Mass.], George Wythe [Va.]; opposed, James Wilson [Pa.], Robert R. Livingston [N. Y.], Edward Rutledge [S. C.], John Dickinson [Pa.]—Daniel Webster's Re-creation of the Debate: Supposed Speeches of John Hancock [Mass.] and John Adams—Speech of Mr. Lee: "Independence a Solemn Duty"—The Declaration Is Passed.

A CONVENTION made up of two delegates from each militia company of Mecklenburgh county, N. C., met, on May 20, 1775, at Charlotte, the county seat, and passed certain resolutions which on their face seem to be a forecast not only of the declarations of the second Congress, then in session, but of the Declaration of Independence in July, 1776. A fierce controversy over the authenticity of these resolutions has been waged by American historians, owing to the fact that the original transcript was burned in 1800, and only what purports to be a copy has been preserved.

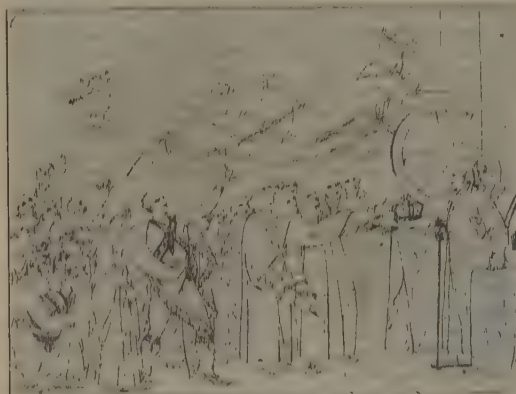
The two significant resolutions are:

"Resolved, That we, the citizens of Mecklenburgh county, do hereby dissolve the political bands which have connected us to our mother country and hereby absolve ourselves from all allegiance to the British Crown, and abjure all political connection, contract, or association, with a nation which has wantonly

foreign as well as British troops were to be employed to put down the rebellion which he declared had been undertaken by the colonists for the purpose of establishing an independent empire.

While it was generally agreed by Parliament that the war should be prosecuted vigorously, a lively debate ensued over the employment of mercenaries to destroy people of their own blood. The proposition was carried.

The passage of an act to prohibit all trade with the colonies, containing a clause empowering British naval commanders to impress into the King's service captured American seamen and other persons, following as it did the employment of mercenary troops, shut and bolted the door on all prospect of reconciliation. The ablest men in America now began to advocate separation from Great Britain. Many colonials who had taken an active part in opposing the war left the country for Canada or England.



RECEPTION OF THE AMERICAN LOYALISTS BY GREAT BRITAIN
From the collection of the New York Historical Society

trampled on our rights and liberties and inhumanly shed the innocent blood of American patriots at Lexington.

"Resolved, That we do hereby declare ourselves a free and independent people, are, and of right ought to be, a sovereign and self-governing association, under the control of no power other than that of God and the general Congress; to the maintenance of which independence we solemnly pledge to each other our mutual cooperation, our lives, our fortunes, and our most sacred honor."

Foremost among the writers who advocated independence at this time were Thomas Paine and William Henry Drayton.

Paine in January, 1776, at the suggestion of Dr. Benjamin Rush, published a pamphlet "Common Sense," addressed "to the inhabitants of America," and advocating complete independence of the country in a forcible popular style which at once made him a man of note throughout all the colonies. The book, says Dr. Rush, "burst forth with an effect that has rarely been produced by types and paper in any age or country."

In the second article of "Common Sense," entitled "Thoughts on the Present State of American Affairs," Paine says:

It is repugnant to reason, and the universal order of things, to all examples from former ages, to suppose that this continent can longer remain subject to any external power. The most sanguine in Britain do not think so. The utmost stretch of human wisdom cannot, at this time, compass a plan short of separation which can promise the continent even a year's security. Reconciliation is now a fallacious dream. Nature hath deserted the connection and art cannot supply her place. For, as Milton wisely expresses, "never can true reconciliation grow where wounds of deadly hate have pierced so deep."

Every quiet method for peace hath been ineffectual. Our prayers have been rejected with disdain, and only tended to convince us that nothing flatters vanity or confirms obstinacy in kings more than repeated petitioning. Wherefore, since nothing but blows will do, for God's sake let us come to a final separation, and not leave the next generation to be cutting throats under the violated unmeaning names of parent and child.

A government of our own is our natural right; and when a man seriously reflects on the precariousness of human affairs he will become convinced that it is infinitely wiser and safer to form a constitution of our own in a cool, deliberate manner, while we have it in our power, than to trust such an interesting event to time and chance. If we omit it now some Masaniello may hereafter arise, who, laying hold of popular disquietudes, may collect together the desperate and the discontented, and, by assuming to themselves the powers of government, finally sweep away the liberties of the continent like a deluge. Ye that oppose independence now, ye know not what ye do; ye are opening a door to eternal tyranny by keeping vacant the seat of government.

O ye that love mankind! Ye that dare oppose, not only the tyranny, but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the globe. Asia and Africa have long expelled her. Europe regards her like a stranger, and England hath given her warning to depart. Oh, receive the fugitive, and prepare in time an asylum for mankind.

In the last article of the pamphlet, "On The Present Ability of America," after discussing the military and financial power of the united colonies, Paine says in conclusion:

Youth is the seed-time of good habits, as well in nations as in individuals. It might be difficult, if not impossible, to form the continent into one government half a century hence. The vast variety of interests occasioned by an increase of trade and population would create confusion. Colony would be against colony. Each being able might scorn each other's assistance; and, while the proud and foolish gloried in their little distinctions, the wise would lament that the union had not been formed before. Wherefore the *present time* is the *true time* for establishing it. The intimacy which is contracted in infancy and the friendship which is formed in misfortune are, of all others, the most lasting and unalterable. Our present union is marked with both these characters: we are young, and we have been distressed; but our concord hath withstood our troubles and fixed a memorable era for posterity to glory in.

The present time, likewise, is that peculiar time which never happens to a nation but once, viz., the time of forming itself into a government. Most nations have let slip the opportunity, and,

dismissed without being impaneled, whereby, in contempt of *Magna Charta*, justice has been delayed and denied; it cannot but afford to every good citizen the most sincere satisfaction once more to see juries, as they now are, legally impaneled, to the end that the laws may be duly administered—I do most heartily congratulate you upon so important an event.

In this court, where silence has but too long presided, with a direct purpose to loosen the bands of government that this country might be involved in anarchy and confusion, you are now met to regulate your verdicts under a new constitution of government independent of royal authority—a constitution which arose according to the great law of nature and of nations, and which was established in the late congress, on the 26th of March last.

After enumerating the various oppressive acts of Parliament which had led to the revolution of the colonial government, he continued:

These acts have, either immediately or in their evident consequences, deeply affected all the colonies: ruin stared them in the face. They united their counsels and laid their just complaints before the Throne, praying a redress of grievances. But, to their astonishment, their dutiful petition for peace and safety was answered *only* by an actual commencement of war and military destruction!

In the mean time the British troops that had been peaceably received by the devoted inhabitants of Boston, as the *troops of their sovereign, bound to protect them!* fortified that town, to imprison the inhabitants and to hold that capital against the people to whom it belonged! And the British rulers having determined to appeal from reason and justice to violence and arms, a select body of those troops being in the night suddenly and privately marched from Boston—at Lexington, on the 19th day of April, 1775, they, by surprise, drew the sword of civil war and plunged it into the breasts of the Americans! Against this horrid injustice the Almighty gave instant judgment: a handful of country militia, badly armed, suddenly collected, and, unconnectedly and irregularly brought up to repel the attack, discomfited the regular bands of the tyranny; they retreated, and night saved them from total slaughter.

Thus forced to take up arms in our own defence, America yet again most dutifully petitioned the King, that he would be pleased "to direct some mode by which the united applications

by that means, have been compelled to receive laws from their conquerors instead of making laws for themselves. First they had a king, and then a form of government; whereas the articles or charter of government should be formed first and men delegated to execute them afterward; but from the errors of other nations let us learn wisdom and lay hold of the present opportunity—to begin government at the right end.

In an appendix to the pamphlet Paine declares:

"He who takes nature for his guide is not easily beaten out of his argument, and on that ground I answer generally, *That independence being a single simple line, contained within ourselves, and reconvulsed a matter exceedingly perplexed and complicated, and in which a treacherous, capricious court is to interfere, gives the answer without a doubt.*"

"Wherefore," concludes Paine, "instead of gazing at each other with suspicious or doubtful curiosity, let each of us hold out to his neighbor the hearty hand of friendship, and unite in drawing a line which, like an act of oblivion, shall bury in forgetfulness every former dissension. Let the names of Whig and Tory be extinct, and let none other be heard among us than those of a *good citizen, an open and resolute friend, and a virtuous supporter of the rights of mankind, and of the FREE AND INDEPENDENT STATES OF AMERICA.*"

Another early advocate of entire separation from Great Britain was William Henry Drayton, Chief-Justice of South Carolina. On the 23rd of April, 1776, he delivered a notable address to the grand jury of Charleston upon the adoption of the new State Constitution, in which he foreshadowed the Declaration of Independence by his enumeration of the acts of the King and Parliament which justified the separation of the colonies from the British empire.

AMERICA CREATED TO BE FREE

JUDGE WILLIAM HENRY DRAYTON

Gentlemen of the Grand Jury: When, by evil machinations tending to nothing less than absolute tyranny, trials by jury have been discontinued, and juries, in discharge of their duty, have assembled, and, as soon as met, as silently and arbitrarily

of his faithful colonists to the throne, in presence of their common councils, might be improved into a happy and permanent reconciliation; and that, in the meantime, measures might be taken for preventing the further destruction of the lives of His Majesty's subjects." But it was in vain! The petition on the part of millions, *praying that the effusion of blood might be stayed*, was not thought worthy of an answer! The nefarious war continued. The ruins of Charlestown, Palmetto, and Norfolk, towns not constructed for offenses or defense, mark the *humane* progress of the royal arms; so the ruins of Carthage, Corinth, and Numantium proclaimed to the world that justice was expelled the Roman senate! On the other hand, the fortitude with which America has endured these civil and military outrages; the union of her people, as astonishing as unprecedented, when we consider their various manners and religious tenets; their distance from each other; their various and clashing local interests; their self-denial; and their *miraculous* success in the prosecution of the war; I say, these things all demonstrate that the Lord of Hosts is on our side! So it is apparent that the Almighty Constructor of the universe, having formed this continent of materials to compose a state preëminent in the world, is now making use of the tyranny of the British rulers, as an instrument to fashion and arrange those materials for the end for which, in His wisdom, he had formed them.

In this enlightened age humanity must be particularly shocked at a recital of such violence; and it is scarce to be believed, that the British tyranny could entertain an idea of proceeding against America by a train of more dishonorable machinations. But, nothing less than *absolute proof* has convinced us that, in carrying on the conspiracy against the rights of humanity, the tyranny is capable of attempting to perpetrate whatever is infamous.

For the little purpose of disarming the imprisoned inhabitants of Boston, the King's general, Gage, in the face of day, violated the public faith, by *himself* plighted, and, in concert with other governors, and with John Stuart, he made every attempt to instigate the *savage* nations to war upon the southern colonies, indiscriminately to massacre man, woman, and child. The governors in general have demonstrated that truth is not in them; they have enveiled negroes from, and have armed them against, their masters; they have armed brother against brother—son against father! Oh! Almighty Director of the universe! what confidence can be put in a government ruling by

such engines, and upon such principles of *unnatural* destruction!—a government that, upon the 21st day of December last, made a law, *ex post facto*, to justify what had been done, not only without law, but in its nature unjust!—a law to make prize of all vessels trading in, to, or from the united colonies—a law to make slaves of the crews of such vessels, and to compel them to bear arms against their consciences, their fathers, their bleeding country! The world, so old as it is, heretofore had never heard of so atrocious a procedure: it has no parallel in the registers of tyranny.

For this only end the house of Brunswick was called to rule over us. Oh! agonizing reflection! that house ruled us with swords, fire, and bayonets! The British government operated only to our destruction. Nature cried aloud, self-preservation is the great law—we have but obeyed.

You have now a form of government in every respect preferable to the mode under the British authority; and this will most clearly appear by contrasting the two forms of government.

Under the British authority governors were sent over to us who were utterly unacquainted with our local interests, the genius of the people, and our laws; generally, they were but too much disposed to obey the mandates of an arbitrary ministry; and, if the governor behaved ill, we could not by any peaceable means procure redress. But, under our present happy constitution, our executive magistrate arises according to the spirit and letter of holy writ—"their governors shall proceed from the midst of them." Thus the people have an opportunity of choosing a man intimately acquainted with their true interests, their genius, and their laws; a man perfectly disposed to defend them against arbitrary ministers, and to promote the happiness of that people from among whom he was elevated, and by whom, without the least difficulty, he may be removed and blended in the common mass.

Again, under the British authority it was in effect declared, that we had no property; nay, that we could not possess any; and that we had not any of the rights of humanity. For men who knew us not, men who gained in proportion as we lost, arrogated to themselves a right to BIND US IN ALL CASES WHATSOEVER! But our constitution is calculated to FREE us from foreign bondage; to secure to us our property; to maintain to us the rights of humanity; and to defend us and our posterity against British authority aiming to reduce us to the most abject slavery!

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treated as rebels, we still ardently desire," I say, when these two points are contrasted, can we avoid revering the magnanimity of that great council of the state, who, after such injuries, could entertain such a principle! But the virtuous are ever generous. We do not wish revenge; we earnestly wish an accommodation of our unhappy disputes with Great Britain; for we prefer peace to war. Nay, there may be even such an accommodation as, excluding every idea of revenue by taxation or duty, or of legislation by act of Parliaments, may vest the king of Great Britain with such a limited dominion over us as may tend, *bona fide*, to promote our true commercial interests, and to secure our freedom and safety—the only just ends of any dominion. But, while I declare thus much on the one side, on the other it is my duty also to declare that, in my opinion, our true commercial interests cannot be provided for but by such a material alteration of the British acts of navigation as, according to the resolve of the honorable the Continental Congress, will "secure the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members." And that our liberties and safety cannot be depended upon, if the king of Great Britain should be allowed to hold our forts and cannon, or to have authority over a single regiment in America, or a single ship of war in our ports. For, if he holds our forts, *he may turn them against us*, as he did Boston against her proprietors; if he acquires our cannon *he will effectually disarm the colony*; if he has a command of troops among us, even if we raise and pay them, *shackles are fixed upon us*—witness Ireland and her national army. The most express act of Parliament cannot give us security, for acts of Parliament are as easily repealed as made. Royal proclamations are not to be depended upon, witness the *disappointments of the inhabitants of Quebec and St. Augustine*. Even a change of ministry will not avail us, because, notwithstanding the rapid succession of ministers for which the British court has been famous during the present reign, yet the same ruinous policy ever continued to prevail against America. In short, I think it my duty to declare, in the awful seat of justice and before Almighty God, that, in my opinion, the Americans can have no safety but by the Divine favor, their own virtue, and their being so prudent as NOT TO LEAVE IT IN THE POWER OF THE BRITISH RULERS TO INJURE THEM. Indeed, the ruinous and deadly injuries received on our side, and the jealousies entertained, and which, in the nature of things, must daily increase against us, on the other, demonstrate to a mind in the least given to reflection upon the rise and fall of empires, that true recon-

Again, the British authority declared that we should not erect slitting mills; and to this unjust law we implicitly and respectfully submitted, so long as, with safety to our lives, we could yield obedience to such authority; but a resolution of congress now grants a premium to encourage the construction of such mills. The British authority discouraged our attempting to manufacture for our own consumption; but the new constitution, by authorizing the disbursement of large sums of money by way of loan or premium, encourages the making of iron, bar-steel, nail-roads, gun-locks, gun-barrels, sulphur, niter, gunpowder, lead, woollens, cottons, linens, paper, and salt.

Upon the whole, it has been the policy of the British authority to oblige us to supply our wants at their market, which is the *dearest* in the known world, and to cramp and confine our trade so as to be subservient to their commerce, our real interest being ever out of the question. On the other hand, the new constitution is wisely adapted to enable us to trade with foreign nations, and thereby to supply our wants at the *cheapest* markets in the universe; to extend our trade infinitely beyond what it has ever been known; to encourage manufactures among us; and it is peculiarly formed to promote the happiness of the people, from among whom, by virtue and merit, THE POOREST MAN may arrive at THE HIGHEST DIGNITY. Oh, Carolinians! happy would you be under this new constitution, if you knew your happy state.

Possessed of a constitution of government founded upon so generous, equal, and natural a principle—a government expressly calculated to make the people rich, powerful, virtuous and happy, who can wish to change it, to return under a royal government, the vital principles of which are the reverse in every particular! It was my duty to lay this happy constitution before you in its genuine light: it is your duty to understand, to instruct others, and to defend it.

I might here with propriety quit this truly important subject, but my anxiety for the public weal compels me yet to detain your attention, while I make an observation or two upon one particular part of the constitution.

When all the various attempts to enslave America by fraud, under guise of law; by military threats; by famine, massacre, breach of public faith, and open war are considered on the one hand, and, on the other, the constitution, expressing that some mode of government should be established "until an accommodation of the unhappy differences between Great Britain and America can be obtained; an event which, though traduced and

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cilement never can exist between Great Britain and America, the latter being in subjection to the former. The Almighty created America to be independent of Britain. Let us beware of the impiety of being backward to act as instruments in the almighty hand, now extended to accomplish His purpose, and by the completion of which alone America, in the nature of human affairs, can be secure against the craft and insidious designs of HER ENEMIES, WHO THINK HER PROSPERITY AND POWER ALREADY BY FAR TOO GREAT. In a word, our piety and political safety are so blended that, to refuse our labors in this Divine work, is to refuse to be a great, a free, a pious, and a happy people!

And now, having left the important alternative, political happiness or wretchedness, under God, in a great degree in your own hands, I pray the Supreme Arbiter of the affairs of men so to direct your judgment, as that you may act agreeable to what seems to be His will revealed in His miraculous works in behalf of America, bleeding at the altar of liberty!

COLONIAL DECLARATIONS OF INDEPENDENCE

When the prohibitory act of Parliament reached America, Congress, viewing it as a declaration of war, directed that reprisals be made, both by public and private armed vessels against the ships and goods of the inhabitants of Great Britain found on the high seas, and that American ports be opened to all the world except the dominions of Great Britain. On May 10 Congress recommended to the assemblies, and where no sufficient government had been established to the conventions of the colonies, "to adopt such government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular and America in general."

This was a preliminary step to a general declaration of independence.

Some of the colonial assemblies had already expressed their opinions on this question; the convention of North Carolina having empowered their delegates in Congress "to concur with those in the other colonies in declaring independency." This was the first direct public act of any colonial assembly or convention in



WAR

See the dread Harbinger of human Woe,
Approach BRITANNIA resolutely Slow.
The envied Bond that held the League is broke,
And gloomy vengeance has announc'd her stroke,
May desolation abdicate the plain,
And Peace & Harmony prevail again.

Frontispiece in the "London Magazine," 1776.

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State should be separate and distinct from the judiciary,¹ and that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all or any part of the former members to be again eligible or ineligible, as the laws shall direct.

Sec. 6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men having sufficient evidence of permanent common interest with, and attachment to, the community have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented for the public good.

Sec. 7. That all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people, is injurious to their rights and ought not to be exercised.

Sec. 8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he can not be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

Sec. 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sec. 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fault committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

¹In the constitution adopted June 29, 1776, by the convention that issued this bill of rights, it is provided that "The legislative, executive, and judiciary department shall be separate and distinct, so that neither exercise the powers properly belonging to the other." "These," says Hannia Taylor, in his "Origin and Growth of the American Constitution," "are the first complete dogmatic statements as to the division of powers ever incorporated in a formal document." See Resolve 10 of the Declaration of Rights of the First Continental Congress on page 89.

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favor of the measure. On the 15th of May the convention of Virginia went still farther and unanimously instructed their delegates in the general Congress to propose independence.

On June 12, 1776, the Virginia convention, still in session, passed a Declaration of Rights, which anticipated the Declaration of Independence in its enunciation of natural rights and was even more explicit as to the principles of democratic government. It was drafted by George Mason.

VIRGINIA BILL OF RIGHTS

A declaration of rights made by the representatives of the good people of Virginia, assembled in full and free convention; which rights do pertain to them and their posterity as the basis and foundation of government.

Section 1. That all men are by nature equally free and Independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Sec. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Sec. 3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefensible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Sec. 4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

Sec. 5: That the legislative and executive powers of the

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Sec. 11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

Sec. 12. That freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

Sec. 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

Sec. 14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of, the government of Virginia ought to be erected or established within the limits thereof.

Sec. 15. That no free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

Sec. 16. That religion, or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity toward each other.

LEE'S RESOLUTION

The great question of independence was brought directly before Congress by Richard Henry Lee. On the 7th of June, 1776, he submitted the following resolutions:

Resolved, That these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved.

That it is expedient forthwith to take the most effectual measures for forming foreign alliances.

That a plan of confederation be prepared and transmitted to the respective colonies for their consideration and approbation.

On the 8th these resolutions were debated in committee of the whole.

No question of greater magnitude was ever presented to the consideration of a deliberative body, or debated with more energy, eloquence, and ability.

DEBATE ON LEE'S RESOLUTION

Thomas Jefferson, in his "Writings" (Vol. I, page 10), has given an account of this debate.

SATURDAY, June 8. They [Congress] proceeded to take it [Lee's resolution] into consideration, and referred it to a committee of the whole, into which they immediately resolved themselves, and passed that day and Monday, the 10th, in debating on the subject.

It was argued by [James] Wilson, Robert R. Livingston, E[dward] Rutledge, [John] Dickinson, and others,—

That, though they were friends to the measures themselves, and saw the impossibility that we should ever again be united with Great Britain, yet they were against adopting them at this time:

That the conduct we had formerly observed was wise and proper now, of deferring to take any capital step till the voice of the people drove us into it:

That they were our power, and without them our declarations could not be carried into effect:

That the people of the middle colonies (Maryland, Delaware, Pennsylvania, the Jerseys, and New York) were not yet ripe for bidding adieu to British connection, but that they were fast ripening, and, in a short time, would join in the general voice of America:

That the resolution entered by this House on the 15th of May, for suppressing the exercise of all powers derived from the Crown, had shown, by the ferment into which it had thrown these middle colonies, that they had not yet accommodated their minds to a separation from the mother country:

That some of them had expressly forbidden their delegates to consent to such a declaration, and others had given no instructions, and, consequently, no powers to give such consent:

That, if the delegates of any particular colony had no power to declare such colony independent, certain they were the others could not declare it for them; the colonies being as yet perfectly independent of each other:

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prepared to sail, it would be as well as to go into that declaration at this day.

On the other side it was argued by J[ohn] Adams, [Richard Henry] Lee, [George] Wythe, and others that no gentleman had argued against the policy or the right of separation from Britain, nor had supposed it possible we should ever renew our connection; that they had only opposed its being now declared:

That the question was not whether, by a declaration of independence, we should make ourselves what we are not; but whether we should declare a fact which already exists:

That, as to the people or Parliament of England, we had always been independent of them, their restraints on our trade deriving efficacy from our acquiescence only, and not from any rights they possessed of imposing them; and that, so far, our connection had been federal only, and was now dissolved by the commencement of hostilities:

That, as to the King, we had been bound to him by allegiance, but that this bond was now dissolved by his assent to the late act of Parliament, by which he declares us out of his protection, and by his levying war on us—a fact which had long ago proved us out of his protection, it being a certain position in law that allegiance and protection are reciprocal, the one ceasing when the other is withdrawn:

That James II. never declared the people of England out of his protection; yet his actions proved it, and the Parliament declared it:

No delegates, then, can be denied, or ever want, a power of declaring an existent truth:

That, the delegates from the Delaware counties having declared their constituents ready to join, there are only two colonies, Pennsylvania and Maryland, whose delegates are absolutely tied up; and that these had, by their instructions, only reserved a right of confirming or rejecting the measure:

That the instructions from Pennsylvania might be accounted for from the time in which they were drawn, near a twelvemonth ago, since which the face of affairs has totally changed:

That, within that time, it had become apparent that Britain was determined to accept nothing less than a *carte blanche*, and that the King's answer to the lord mayor, aldermen, and common council of London, which had come to hand four days ago, must have satisfied every one of this point:

That the people wait for us to lead the way:

That they are in favor of the measure, though the instructions given by some of their representatives are not:

That the Assembly of Pennsylvania was now sitting above stairs; their convention would sit within a few days; the convention of New York was now sitting; and those of the Jerseys and Delaware counties would meet on the Monday following; and it was probable these bodies would take up the question of independence, and would declare to their delegates the voice of their state:

That, if such a declaration should now be agreed to, these delegates must retire, and possibly their colonies might secede from the Union:

That such a secession would weaken us more than could be compensated by any foreign alliance:

That, in the event of such a division, foreign powers would either refuse to join themselves to our fortunes, or, having us so much in their power as that desperate declaration would place us, they would insist on terms proportionably more hard and prejudicial:

That we had little reason to expect an alliance with those to whom alone, as yet, we had cast our eyes:

That France and Spain had reason to be jealous of that rising power, which would one day certainly strip them of all their American possessions:

That it was more likely they should form a connection with the British court, who, if they should find themselves unable otherwise to extricate themselves from their difficulties, would agree to a partition of our territories, restoring Canada to France, and the Floridas to Spain, to accomplish for themselves a recovery of these colonies:

That it would not be long before we should receive certain information of the disposition of the French court, from the agent whom we had sent to Paris for that purpose:

That, if this disposition should be favorable, by waiting the event of the present campaign, which we all hoped would be successful, we should have reason to expect an alliance on better terms:

That this would, in fact, work no delay of any effectual aid from such ally, as, from the advance of the season and distance of our situation, it was impossible we could receive any assistance during this campaign:

That it was prudent to fix among ourselves the terms on which we would form an alliance, before we declared we would form one at all events:

And that, if these were agreed on, and our declaration of independence ready by the time our ambassador should be

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That the voice of the representatives is not always consonant with the voice of the people, and that this is remarkably the case in these middle colonies:

That the effect of the resolution of the 15th of May has proved this, which, raising the murmurs of some in the colonies of Pennsylvania and Maryland, called forth the opposing voice of the freer part of the people, and proved them to be the majority even in these colonies:

That the backwardness of these two colonies might be ascribed, partly to the influence of proprietary power and connections, and partly to their having not yet been attacked by the enemy:

That these causes were not likely to be soon removed, as there seemed no probability that the enemy would make either of these the seat of this summer's war:

That it would be vain to wait either weeks or months for perfect unanimity, since it was impossible that all men should ever become of one sentiment on any question:

That the conduct of some colonies, from the beginning of this contest, had given reason to suspect it was their settled policy to keep in the rear of the confederacy, that their particular prospect might be better, even in the worst event:

That, therefore, it was necessary for those colonies who had thrown themselves forward and hazarded all from the beginning to come forward now, also, and put all again to their own hazard:

That the history of the Dutch Revolution, of whom three states only confederated at first, proved that a secession of some colonies would not be so dangerous as some apprehended:

That a declaration of independence alone could render it consistent with European delicacy for European powers to treat with us, or even to receive an ambassador from us:

That, till this, they would not receive our vessels into their ports, nor acknowledge the adjudications of our courts of admiralty to be legitimate, in cases of capture of British vessels:

That, though France and Spain may be jealous of our rising power, they must think it will be much more formidable with the addition of Great Britain, and will, therefore, see it their interest to prevent a coalition; but, should they refuse, we shall be but where we are; whereas, without trying, we shall never know whether they will aid us or not:

That the present campaign may be unsuccessful, and therefore we had better propose an alliance while our affairs wear a hopeful aspect:

That to wait the event of this campaign will certainly work delay, because, during this summer, France may assist us effectually by cutting off those supplies of provisions from England and Ireland on which the enemy's armies here are to depend; or by setting in motion the great power they have collected in the West Indies, and calling our enemy to the defence of the possessions they have there:

That it would be idle to lose time in settling the terms of alliance till we had first determined we would enter into alliance:

That it is necessary to lose no time in opening a trade for our people, who will want clothes, and will want money, too, for the payment of taxes:

And that the only misfortune is, that we did not enter into alliance with France six months sooner—as, besides opening her ports for the vent of our last year's produce, she might have marched an army into Germany and prevented the petty princes there from selling their unhappy subjects to subdue us.

On the 10th the resolution was adopted in committee by a bare majority of the colonies.

It appearing, in the course of the debates, that the colonies of New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina were not yet matured for falling from the parent stem, but that they were fast advancing to that state, it was thought most prudent to wait a while for them, and to postpone the final decision to July 1st; but, that this might occasion as little delay as possible, a committee was appointed to prepare a Declaration of Independence. The committee were John Adams, Dr. Franklin, Roger Sherman, Robert R. Livingston, and Thomas Jefferson.¹ Committees were also appointed, at the same time, to prepare a plan of confederation for the colonies, and to state the terms proper to be proposed for foreign alliance. The committee for drawing the Declaration of Independence desired T. Jefferson to do it. It was accordingly done, and, being approved by them, he reported it to the House on Friday, the 28th of June, when it was read, and ordered to lie on the table. On Monday, the 1st of July, the House resolved itself into a committee of the whole and resumed the consideration of the original motion made by the delegates of Virginia, which, being again debated through the day, was carried in the affirmative

¹ Mr. Lee would have been a member of this committee, and, indeed, as the mover of the resolutions, would undoubtedly have been made its chairman, had he not been called home by the illness of his wife.

by the votes of New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, Maryland, Virginia, North Carolina, and Georgia.¹ South Carolina and Pennsylvania voted against it. Delaware had but two members present and they were divided. The delegates from New York declared they were for it themselves, and were assured their constituents were for it; but that their instructions having been drawn near a twelve-month before, when reconciliation was still the general object, they were enjoined by them to do nothing which should impede that object. They therefore thought themselves not justifiable in voting on either side, and asked leave to withdraw from the question; which was given them. The committee rose and reported their resolution to the house. Mr. Edward Rutledge, of South Carolina, then requested the determination might be put off to the next day, as he believed his colleagues, though they disapproved of the resolution, would then join in it for the sake of unanimity. The ultimate question, whether the house would agree to the resolution of the committee, was accordingly postponed to the next day, when it was again moved, and South Carolina concurred in voting for it. In the meantime, a third member had come post from the Delaware counties, and turned the vote of that colony in favor of the resolution. Members of a different sentiment attending that morning from Pennsylvania also, her vote was changed, so that the whole twelve colonies, who were authorized to vote at all, gave their voices for it,² and, within a few days (July 9) the Convention of New York approved of it, and thus supplied the void occasioned by the withdrawing of her delegates from the vote.

Congress proceeded the same day to consider the Declaration of Independence, which had been reported, and laid on the table the Friday preceding, and on Monday referred to a committee of the whole. The pusillanimous idea that we had friends in England worth keeping terms with still haunted the minds of many. For this reason, those passages which conveyed censures on the people of England were struck out, lest they should give offence. The clause, too, reproaching the enslaving the inhabitants of Africa was struck out in complaisance to South Carolina and Georgia, who had never attempted to restrain the importa-

¹ In this debate, to use Jefferson's later phrase, John Adams was a "colossus" in defence of the resolution, "not graceful, not elegant, not always fluent in his public addresses, yet he came out with a power, both of thought and expression, that moved us from our seats."

² Thus July 2, 1776, and not July 4, was the real beginning of American Independence.



Declaration of Independence.

tion of slaves, and who, on the contrary, still wished to continue it. Our northern brethren also, I believe, felt a little tender under those censures; for, though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others. The debates, having taken up the greater parts of the 2d, 3d, and 4th days of July, were, on the evening of the last, closed; the Declaration was reported by the committee, agreed to by the House, and signed by every member present, except Mr. Dickinson.

Unfortunately the speeches of Adams and others in the debate on Lee's resolution were not preserved. Therefore, Daniel Webster, in his memorial oration on "Adams and Jefferson," delivered in Faneuil Hall, Boston, August 2, 1826, following the precedent established by Thucydides, the Greek historian, imputed actual words to the orators, in order to present the scene vividly before all coming generations. In this reconstruction he used words uttered by the speakers on other occasions (see page 98).

THE DEBATE ON THE DECLARATION

DANIEL WEBSTER

Let us, then, bring before us the assembly, which was about to decide a question thus big with the fate of empire. Let us open their doors and look in upon their deliberations. Let us survey the anxious and careworn countenances; let us hear the firm-toned voices of this band of patriots.

HANCOCK presides over the solemn sitting; and one of those not yet prepared to pronounce for absolute independence is on the floor, and is urging his reasons for dissenting from the Declaration.

"Let us pause! This step, once taken, cannot be retraced. This resolution, once passed, will cut off all hope of reconciliation. If success attend the arms of England, we shall then be no longer colonies, with charters and with privileges; these will all be forfeited by this act; and we shall be in the condition of other conquered people, at the mercy of the conquerors. For ourselves, we may be ready to run the hazard; but are we ready to carry the country to that length? Is success so probable as to justify it? Where is the military, where the naval power, by which we are to resist the whole strength of the arm of England—for she will exert that strength to the utmost? Can we

rely on the constancy and perseverance of the people? or will they not act as the people of other countries have acted, and, wearied with a long war, submit, in the end, to a worse oppression? While we stand on our old ground, and insist on redress of grievances, we know we are right and are not answerable for consequences. Nothing, then, can be imputed to us. But if we now change our object, carry our pretensions farther, and set up for absolute independence, we shall lose the sympathy of mankind. We shall no longer be defending what we possess, but struggling for something which we never did possess, and which we have solemnly and uniformly disclaimed all intention of pursuing, from the very outset of the troubles. Abandoning thus our old ground, of resistance, only to arbitrary acts of oppression, the nations will believe the whole to have been mere pretence, and they will look on us, not as injured, but as ambitious subjects. I shudder before this responsibility. It will be on us, if, relinquishing the ground on which we have stood so long, and stood so safely, we now proclaim independence, and carry on the war for that object, while these cities burn, these pleasant fields whiten and bleach with the bones of their owners, and these streams run blood. It will be upon us, it will be upon us, if, failing to maintain this unreasonable and ill-judged declaration, a sterner despotism, maintained by military power, shall be established over our posterity, when we ourselves, given up by an exhausted, a harassed, a misled people, shall have expiated our rashness and atoned for our presumption on the scaffold."

It was for Mr. ADAMS to reply to arguments like these. We know his opinions, and we know his character. He would commence with his accustomed directness and earnestness.

"Sink or swim, live or die, survive or perish, I give my hand and my heart to this vote.¹ It is true, indeed, that in the beginning we aimed not at independence. But there's a Divinity which shapes our ends. The injustice of England has driven us to arms; and, blinded to her own interest for our good, she has obstinately persisted, till independence is now within our grasp. We have but to reach forth to it, and it is ours. Why, then, should we defer the Declaration? Is any man so weak as now to hope for a reconciliation with England, which shall leave either safety to the country and its liberties, or safety to his own life and his own honor? Are not you, sir, who sit in that chair—is not he our venerable colleague near you—are you not both already the proscribed and predestined objects of punishment and of vengeance? Cut off from all hope of royal clem-

¹ See page 98.

ency, what are you, what can you be, while the power of England remains, but outlaws? If we postpone independence, do we mean to carry on or to give up the war? Do we mean to submit to the measures of Parliament, Boston Port Bill and all? Do we mean to submit and consent that we ourselves shall be ground to powder, and our country and its rights trodden down in the dust? I know we do not mean to submit. We never shall submit. Do we intend to violate that most solemn obligation ever entered into by men, that plighting, before God, of our sacred honor to Washington, when, putting him forth to incur the dangers of war, as well as the political hazards of the times, we promised to adhere to him, in every extremity, with our fortunes and our lives? I know there is not a man here who would not rather see a general conflagration sweep over the land, or an earthquake sink it, than one jot or tittle of that plighted faith fall to the ground. For myself, having, twelve months ago, in this place, moved you that George Washington be appointed commander of the forces raised, or to be raised, for defence of American liberty,¹ may my right hand forget her cunning and my tongue cleave to the roof of my mouth if I hesitate or waver in the support I give him.

"The war, then, must go on. We must fight it through. And if the war must go on, why put off longer the Declaration of Independence? That measure will strengthen us. It will give us character abroad. The nations will then treat with us, which they never can do while we acknowledge ourselves subjects in arms against our sovereign. Nay, I maintain that England herself will sooner treat for peace with us on the footing of independence than consent, by repealing her acts, to acknowledge that her whole conduct toward us has been a course of injustice and oppression. Her pride will be less wounded by submitting to that course of things which now predestinates our independence, than by yielding the points in controversy to her rebellious subjects. The former she would regard as the result of fortune; the latter she would feel as her own deep disgrace. Why, then, why, then, sir, do we not, as soon as possible, change this from a civil to a national war? And since we must fight it through why not put ourselves in a state to enjoy all the benefits of victory if we gain the victory?"

"If we fail, it can be no worse for us. But we shall not fail. The cause will raise up armies; the cause will create navies. The people, the people, if we are true to them, will carry us, and will carry themselves, gloriously, through this struggle. I

¹ See *Life and Works of John Adams*, Vol. II, pp. 417 *et seq.*

care not how fickle other people have been found. I know the people of these colonies, and I know that resistance to British aggression is deep and settled in their hearts and cannot be eradicated. Every colony, indeed, has expressed its willingness to follow, if we but take the lead. Sir, the Declaration will inspire the people with increased courage. Instead of a long and bloody war for the restoration of privileges, for redress of grievances, for chartered immunities, held under a British king, set before them the glorious object of entire independence, and it will breathe into them anew the breath of life. Read this Declaration at the head of the army; every sword will be drawn from its scabbard and the solemn vow uttered to maintain it, or to perish on the bed of honor. Publish it from the pulpit; religion will approve it, and the love of religious liberty will cling round it, resolved to stand with it or fall with it. Send it to the public halls; proclaim it there; let them hear it who heard the first roar of the enemy's cannon; let them see it who saw their brothers and their sons fall on the field of Bunker Hill, and in the streets of Lexington and Concord, and the very walls will cry out in its support.

"Sir, I know the uncertainty of human affairs, but I see, I see clearly through this day's business. You and I, indeed, may rue it. We may not live to the time when this Declaration shall be made good. We may die; die colonists; die slaves; die, it may be, ignominiously and on the scaffold. Be it so. Be it so. If it be the pleasure of Heaven that my country shall require the poor offering of my life, the victim shall be ready at the appointed hour of sacrifice, come when that hour may. But while I do live, let me have a country, or at least the hope of a country, and that a free country.

"But, whatever may be our fate, be assured, be assured that this Declaration will stand. It may cost treasure, and it may cost blood; but it will stand, and it will richly compensate for both. Through the thick gloom of the present, I see the brightness of the future, as the sun in heaven. We shall make this a glorious, an immortal, day. When we are in our graves our children will honor it. They will celebrate it with thanksgiving, with festivity, with bonfires, and illuminations. On its annual return they will shed tears, copious, gushing tears, not of subjection and slavery, not of agony and distress, but of exultation, of gratitude, and of joy. Sir, before God, I believe the hour is come. My judgment approves this measure, and my whole heart is in it. All that I have, and all that I am, and all that I hope, in this life, I am now ready here to stake upon it; and I

leave off as I begun, that live or die, survive or perish, I am for the Declaration. It is my living sentiment, and by the blessing of God it shall be my dying sentiment, Independence now, and INDEPENDENCE FOR EVER."¹

The following speech of Richard Henry Lee was delivered while the Declaration of Independence was under consideration.

INDEPENDENCE A SOLEMN DUTY

BY RICHARD HENRY LEE

The time will certainly come when the fated separation between the mother country and these colonies must take place, whether you will or no, for it is so decreed by the very nature of things, by the progressive increase of our population, the fertility of our soil, the extent of our territory, the industry of our countrymen, and the immensity of the ocean which separates the two countries. And, if this be true, as it is most true, who does not see that the sooner it takes place the better?—that it would be the height of folly not to seize the present occasion when British injustice has filled all hearts with indignation, inspired all minds with courage, united all opinions in one, and put arms in every hand? And how long must we traverse three thousand miles of a stormy sea to solicit of arrogant and insolent men either counsel or commands to regulate our domestic affairs? From what we have already achieved it is easy to presume what we shall hereafter accomplish. Experience is the source of sage counsels, and liberty is the mother of great men. Have you not seen the enemy driven from Lexington by citizens armed and assembled in one day? Already their most celebrated generals have yielded in Boston to the skill of ours. Already their seamen, repulsed from our coasts, wander over the ocean, the sport of tempests and the prey of famine. Let us hail the favorable omen, and fight, not for the sake of know-

¹In answer to an inquiry as to the sources of this supposed speech of Adams, Webster wrote: "The day after the Declaration was made, Mr. Adams, in writing to a friend, declared the event to be one that ought to be commemorated, as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward, for evermore." And on the day of his death, hearing the noise of bells and cannon, he asked the occasion. On being reminded that it was 'Independence Day,' he replied, 'Independence forever!'"

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reading, the bell of the State-house (the present "Liberty Bell") was rung; and the people gave themselves over to joyful demonstrations. The Declaration was reprinted by papers throughout the thirteen colonies.



THE HORSE AMERICA THROWING HIS MASTER
A British cartoon in 1779
From the collection in the New York Public Library

ing on what terms we are to be the slaves of England, but to secure to ourselves a free existence, to found a just and independent government.

Why do we longer delay? why still deliberate? Let this most happy day give birth to the American republic. Let her arise, not to devastate and conquer, but to reëstablish the reign of peace and the laws. The eyes of Europe are fixed upon us; she demands of us a living example of freedom that may contrast, by the felicity of her citizens, with the ever-increasing tyranny which desolates her polluted shores. She invites us to prepare an asylum where the unhappy may find solace and the persecuted repose. She entreats us to cultivate a propitious soil, where that generous plant which first sprang up and grew in England, but is now withered by the poisonous blasts of Scottish tyranny, may revive and flourish, sheltering under its salubrious and interminable shade all the unfortunate of the human race. This is the end presaged by so many omens; by our first victories; by the present ardor and union; by the flight of Howe, and the pestilence which broke out among Dunmore's people; by the very winds which baffled the enemy's fleets and transports, and that terrible tempest which engulfed seven hundred vessels upon the coast of Newfoundland.

If we are not this day wanting in our duty to our country, the names of the American legislators will be placed, by posterity, at the side of those of Theseus, of Lycurgus, of Romulus, of Numa, of the three Williams of Nassau, and of all those whose memory has been and will be forever dear to virtuous men and good citizens.

On the 4th of July the Declaration of Independence reported by the special committee came before Congress for final decision, and, after amendments, received the vote of every colony, as Jefferson has narrated. It also received the vote of every delegate present except John Dickinson, and was signed by everyone but him. It is said that when John Hancock affixed his bold signature he said: "There! I think old Mother Britain can see that without her spectacles!"

The Declaration was published in the "Evening Post" of Philadelphia in the morning of July 8, and at noon was read to the public from a platform in the yard of the State-house by Joseph Nixon, a member of the Pennsylvania Council of Safety. At the close of his

CHAPTER VII

THE DECLARATION OF INDEPENDENCE

Thomas Jefferson [Va.] Drafts the Declaration—Eulogies of Jefferson as the Author of the Declaration by Daniel Webster and Edward Everett—Original Draft of the Declaration, with Corrections Showing the Final Draft—Signing and Promulgation of the Declaration—Speech of Samuel Adams [Mass.] on "American Independence."

THE committee had delegated to Thomas Jefferson and John Adams the drafting of the Declaration, and Adams, with rare modesty, left this honorable task to Jefferson, confining himself to suggestions.

And Jefferson acquitted himself so well that, had he never written another line, his fame would have been imperishable, not only in America, but throughout the world, to which the Declaration stands as the supreme expression of natural rights and popular liberty. Said Daniel Webster, in his commemorative oration on Adams and Jefferson (1826):

"The merit of this paper is Mr. Jefferson's. Some changes were made in it, on the suggestion of other members of the committee, and others by Congress while it was under discussion. But none of them altered the tone, the frame, the arrangement, or the general character of the instrument. As a composition, the Declaration is Mr. Jefferson's. It is the production of his mind, and the high honor of it belongs to him, clearly and absolutely. . . . To say that he performed his great work well would be doing him injustice. To say that he did excellently well, admirably well, would be inadequate and halting praise.

Let us rather say that he so discharged the duty assigned him that all Americans may well rejoice that the work of drawing the title-deed of their liberties devolved on his hands."

And Edward Everett, in his eulogy of Adams and Jefferson in the same year, said:

"To have been the instrument of expressing, in one brief, decisive act, the concentrated will and resolution of a whole family of states, of unfolding, in one all-important manifesto, the causes, the motives, and the justification of this great movement in human affairs; to have been permitted to give the impress and peculiarity of his own mind to a charter of public right, destined—or, rather, let me say, already elevated—to an importance in the estimation of men equal to any thing human, ever borne on parchment or expressed in the visible signs of thought—this is the glory of Thomas Jefferson."

The following text is the draft as presented to Congress, and as preserved in manuscript by the Department of State at Washington. John Adams also left behind him a copy of the draft in shorter form. Later Jefferson prepared a number of copies for his friends. That in the Madison collection is called "MS. A," and that in the Emmet collection is called "MS. B." The words with a white line drawn through them were stricken out in committee. The words within brackets were stricken out by Congress.¹

DECLARATION OF INDEPENDENCE

REPORTED DRAFT

A Declaration by the Representatives of the United States of America, in General² Congress assembled.³

When in the course of human events it becomes necessary for a one people to advance from that subordination in which they have hitherto remained, & to dissolve the political bands which have connected them with other another and to assume among the powers of the earth the equal & independent separate and equal station to which the laws of nature & of nature's god entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the change the separation.

We hold these truths to be sacred & undeniable self-evident;

¹ The text and accompanying annotations are reprinted from Vol. V of the "Journals of the Continental Congress," published by the Government Printing Office.

² In MS. A this word is in brackets.

³ In the engrossed form signed on August 2, 1776, the heading was changed to "The unanimous Declaration of the thirteen United States of America."

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large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, & formidable to tyrants only:

he has called together legislative bodies at places unusual, uncomfortable, & distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures:

he has dissolved Representative houses repeatedly [& continually] for opposing with manly firmness his invasions on the rights of the people:

when dissolved he has refused for a long space of time after such Dissolutions¹ to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining in the mean time exposed to all the dangers of invasion from without, & convulsions within:

he has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither; & raising the conditions of new appropriations of lands:

he has [suffered] obstructed the administration of justice [totally to cease in some of these colonies states,] by refusing his assent to laws for establishing judiciary powers:

he has made [our] judges dependant on his will alone, for the tenure of their offices, and the amount & payment² of their salaries:

he has erected a multitude of new offices [by a self-assumed power,] & sent hither swarms of³ officers to harass our people & eat out their substance:

he has kept among us in times of peace although our Conduct⁴ standing armies [& ships of war] without our the consent of our Legislatures:

he has affected to render the military, independent of & superior to the civil power:

he has combined with others to subject us to a jurisdiction foreign to our constitutions and unacknowledged by our laws; giving his assent to their acts of pretended acts of legislation, for quartering large bodies of armed troops among us;

for protecting them by a mock-trial from punishment for any murders which they should commit on the inhabitants of these states;

¹ Against these four words Jefferson has written "Mr. Adams."

² Against these words Jefferson has written "Dr. Franklin."

³ MS. A reads "new officers."

⁴ These words were in the writing of John Adams.

that all men are created equal, & independent; that from that equal creation they derive in they are endowed by their creator with equal rights some of which are certain [inherent &] inalienable¹ rights; that among which these are the preservation of life, & liberty, & the pursuit of happiness; that to secure these ends rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government shall becomes destructive of these ends, it is the right of the people to alter or to abolish it, & to institute new government, laying it's foundation on such principles & organising it's powers in such form, as to them shall seem most likely to effect their safety & happiness. prudence indeed will dictate that governments long established should not be changed for light & transient causes: and accordingly all experience hath shewn that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. but when a long train of abuses & usurpations, [began at a distinguished period, &] pursuing invariably the same object, evinces a design to subject reduce them to arbitrary power, under absolute Despotism,² it is their right, it is their duty, to throw off such government & to provide new guards for their future security. such has been the patient sufferance of these colonies; & such is now the necessity which constrains them to [expunge] alter their former systems of government. the history of his the present Majesty King of Great Britain,³ is a history of [unremitting] repeated injuries and usurpations, [among which no one fact stands single or solitary appears no solitary fact to contradict the uniform tenor of the rest, all of which [have] but] all having in direct object the establishment of an absolute tyranny over these states. to prove this let facts be submitted to a candid world, [for the truth of which we pledge a faith yet unsullied by falsehood.]

he has refused his assent to laws the most wholesome and necessary for the public good:

he has forbidden his governors to pass laws of immediate & pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected utterly to attend to them.

he has refused to pass other laws for the accommodation of

¹ "Unalienable" in the engrossed form.

² Against these three words Jefferson has written "Dr. Franklin's hand writing," but the insertion appears to have been made by Jefferson himself.

³ Against these four words Jefferson has written "Mr. Adams' hand writing."

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for cutting off our trade with all parts of the world;

for imposing taxes on us without our consent;

for depriving us in many cases¹ of the benefits of trial by jury;

for transporting us beyond seas to be tried for pretended offences;

for abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government and enlarging it's boundaries so as to render it at once an example & fit instrument for introducing the same absolute rule into these colonies [states] colonies;

for taking away our charters, abolishing our most important valuable Laws,² and altering fundamentally the forms of our governments,

for suspending our own legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever:

he has abdicated government here, [withdrawing his governors, & declaring us out of his allegiance & protection:] by declaring us out of his protection & waging war against us.³

he has plundered our seas, ravaged our coasts, burnt our towns & destroyed the lives of our people:

he is at this time transporting large armies of *Scotch and other*⁴ foreign mercenaries to complete the works of death desolation and tyranny already begun with circumstances of cruelty & perfidy scarcely paralleled in the most barbarous ages and totally unworthy the head of a civilized nation:

he has constrained &c.⁵

he has excited domestic insurrections amongst us and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, & conditions [of existence:]

[he has incited treasonable insurrections of our fellow-citizens, with the allurements of forfeiture & confiscation of our property:]

He has constrained others,⁶ falling into his hands taken un-

¹ MS. B omits these three words.

² Against this phrase Jefferson has written "Dr. Franklin."

³ MS. B omits the words "and waging war against us."

⁴ Omitted in engrossed copy.

⁵ Probably a note of insertion for locating in the final form the third paragraph below. MS. A gives the final order of paragraphs, while MS. B follows the earlier arrangement. In the engrossed copy the paragraph appears here, beginning: "He has constrained our fellow citizens, taken captive," etc.

⁶ MS. A reads "our fellow citizens."

tive on the high seas to bear arms against their country, & to destroy & be destroyed by the brethren whom they love, to become the executioners of their friends & brethren, or to fall themselves by their hands:

[he has waged cruel war against human nature itself, violating it's most sacred rights of life & liberty in the persons of a distant people, who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. this piratical warfare, the opprobrium of *infidel* powers, is the warfare of the CHRISTIAN king of Great Britain determined to keep open a market where MEN should be bought & sold, and he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce determining to keep open a market where MEN should be bought and sold: and that this assemblage of horrors might want no fact of distinguished dye, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which *he* has deprived them, by murdering the people upon whom *he* also obtruded them: thus paying off former crimes committed against the *liberties* of one people, with crimes which he urges them to commit against the *lives* of another.]¹

in every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only² by repeated injuries.³ a prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people [who mean to be free. future ages will scarce⁴ believe that the hardness audacity of one man adventured within the short compass of twelve years only, on so many acts of tyranny without a mask to lay build a foundation, so broad & undisguised,⁵ for tyranny over a people fostered & fixed in principles of liberty freedom.]

Nor have we been wanting in attentions to our British brethren. we have warned them from time to time of attempts by

¹Mr. Jefferson, in his "Autobiography," gives the following reason for the omission of this passage: "The clause reproaching the enslaving the inhabitants of Africa was struck out in compliance to *South Carolina and Georgia*, who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it. Our Northern brethren also, I believe, felt a little tender under those censures; for, though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others."

²Against this word Jefferson has written "Dr. Franklin."

³MS. B reads "injury."

⁴MS. A reads "scarcely."

⁵MS. A reads "so undisguised."

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kings of Great Britain & all others who may hereafter claim by, through, or under them; we utterly dissolve & break off all political connection which may have heretofore subsisted between us & the people of parliament¹ of Great Britain; and finally we do assert and declare these colonies to be free and independent states, and that as free & independent states, they shall hereafter have full power to levy war, conclude peace, contract alliances, establish commerce, & to do all other acts and things which independent states may of right do. And for the support of this declaration] we mutually pledge to each other our lives, our fortunes, & our sacred honour.

This declaration was directed to be engrossed,² and on the 2nd of August, 1776, was signed by all the members then present, and by some who were not members on the 4th of July.

Copies of the declaration were immediately sent to all the States, and to the commander of the American troops, and was publicly proclaimed in each State, and at the head of the army. The great mass of the people were now prepared for this event, and the declaration was received with acclamation.

On the day before the engrossed copy of the Declaration was signed, Samuel Adams of Massachusetts delivered an address on "American Independence," which, as the only speech which has been preserved of this eloquent orator, is a memorable document in American history. In the conclusion of this address he said:

AMERICAN INDEPENDENCE

SAMUEL ADAMS

Countrymen, the men who now invite you to surrender your rights into their hands are the men who have let loose the mercies to the British Crown, and that all political connexion between them and the State of Great Britain is, and ought to be, totally dissolved; and that, as FREE and INDEPENDENT STATES, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which INDEPENDENT STATES may of right do. AND for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honour."¹

¹MS. B reads "parliament or people."

²The verbal changes made in engrossing have been pointed out in annotations to the second draft. Besides these there were numerous changes in capitalization and punctuation.

their legislature to extend a¹ an unwarrantable jurisdiction over [these our states] us. we have reminded them of the circumstances of our emigration & settlement here, [no one of which could warrant so strange a pretension: that these were effected at the expence of our own blood & treasure, unassisted by the wealth or the strength of Great Britain: that in constituting indeed our several forms of government, we had adopted one common king, thereby laying a foundation for perpetual league & amity with them: but that submission to their parliament was no part of our constitution, nor ever in idea if history may be credited; and] we have appealed to their native justice & magnanimity, [as well as to] & we have conjured them by the ties of our common kindred to disavow these usurpations which [were likely to] would inevitably interrupt our connection & correspondence & connection. they too have been deaf to the voice of justice & of consanguinity, [& when occasions have been given them, by the regular course of their laws, of removing from their councils the disturbers of our harmony, they have by their free election reestablished them in power. at this very time too they are permitting their chief magistrate to send over not only soldiers of our common blood, but Scotch & foreign mercenaries, to invade & deluge us in blood destroy us.² these facts have given the last stab to agonizing affection, and manly spirit bids us to renounce forever these unfeeling brethren. we must endeavor to forget our former love for them, and to hold them as we hold the rest of mankind, enemies in war, in peace friends. we might have been a free & a great people together; but a communication of grandeur & of freedom it seems is below their dignity. be it so since they will have it: the road to glory & happiness & to glory is open to us too; we will climb must tread it in a separately state apart from them, and,] we must therefore acquiesce in the necessity which pro denounces our everlasting Adieu [eternal] separation, and hold them as we hold the rest of mankind enemies in war, in peace friends!

We therefore the representatives of the United States of America in General Congress assembled appealing to the supreme judge of the world for the rectitude of our intentions do in the name & by authority of the good people of these [states] colonies,³ [reject and renounce all allegiance & subjection to the

¹This word should have been stricken out.

²Against these two words Jefferson has written "Dr. Franklin."

³Against the following text Jefferson wrote "a different phraseology inserted." In the engrossed copy this text follows: "I solemnly PUBLISH and DECLARE, That these United Colonies are, and, of Right, ought to be, Free and Independent States; that they are Absolved from all Allegiance

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less savages to riot in the blood of their brethren; who have dared to establish Popery triumphant in our land; who have taught treachery to your slaves, and courted them to assassinate your wives and children.

These are the men to whom we are exhorted to sacrifice the blessings which Providence holds out to us: the happiness, the dignity, of uncontrolled freedom and independence.

Let not your generous indignation be directed against any among us who may advise so absurd and maddening a measure. Their number is but few, and daily decreases; and the spirit which can render them patient of slavery will render them contemptible enemies.

Our union is now complete; our Constitution composed, established, and approved. You are now the guardians of your own liberties. We may justly address you, as the *decemviri* did the Romans, and say: "Nothing that we propose can pass into a law without your consent. Be yourselves, O Americans, the authors of those laws on which your happiness depends."

You have now in the field armies sufficient to repel the whole force of your enemies and their base and mercenary auxiliaries. The hearts of your soldiers beat high with the spirit of freedom; they are animated with the justice of their cause, and while they grasp their swords can look up to Heaven for assistance. Your adversaries are composed of wretches who laugh at the rights of humanity, who turn religion into derision, and would, for higher wages, direct their swords against their leaders or their country. Go on, then, in your generous enterprise, with gratitude to Heaven for past success, and confidence of it in the future. For my own part, I ask no greater blessing than to share with you the common danger and common glory. If I have a wish dearer to my soul than that my ashes may be mingled with those of a Warren and a Montgomery, it is that these American States may never cease to be free and independent.

alleviation by a free and unreserved communication of my sentiments.

I will not join in congratulation on misfortune and disgrace. I cannot concur in a blind and servile address, which approves and endeavors to sanctify the monstrous measures which have heaped disgrace and misfortune upon us. This, my Lords, is a perilous and tremendous moment! It is not a time for adulation. The smoothness of flattery cannot now avail—cannot save us in this rugged and awful crisis. It is now necessary to instruct the Throne in the language of truth. We must dispel the illusion and the darkness which develop it, and display, in its full danger and true colors, the ruin that is brought to our doors.

This, my Lords, is our duty. It is the proper function of this noble assembly, sitting, as we do, upon our honors in this House, the hereditary council of the Crown. Who is the minister—where is the minister, that has dared to suggest to the Throne the contrary, unconstitutional language this day delivered from it? The accustomed language from the Throne has been application to Parliament for advice, and a reliance on its constitutional advice and assistance. As it is the right of Parliament to give, so it is the duty of the Crown to ask it. But on this day, and in this extreme momentous exigency, no reliance is reposed on our constitutional counsels! no advice is asked from the sober and enlightened care of Parliament! but the Crown, from itself and by itself, declares an unalterable determination to pursue measures—and what measures, my Lords? The measures that have produced the imminent perils that threaten us; the measures that have brought ruin to our doors.

Can the minister of the day now presume to expect a continuance of support in this ruinous infatuation? Can Parliament be so dead to its dignity and its duty as to be thus deluded into the loss of the one and the violation of the other? To give an unlimited credit and support for the steady perseverance in measures not proposed for our parliamentary advice, but dictated and forced upon us—in measures, I say, my Lords, which have reduced this late flourishing empire to ruin and contempt! "But yesterday, and England might have stood against the world: now none so poor to do her reverence." I use the words of a poet; but, though it be poetry, it is no fiction. It is a shameful truth, that not only the power and strength of this country are wasting away and expiring, but her well-earned glories, her true honor, and substantial dignity are sacrificed.

France, my Lords, has insulted you; she has encouraged and

CHAPTER VIII

REVOLUTION OR REBELLION?

Speech of Lord Chatham against the American War—The French Alliance—Speech of Charles James Fox on "Folly of the American War"—Speech of John Wilkes on "Revolution, not Rebellion"—Inspiring Address of Congress (drafted by Samuel Chase): "Be Not Deceived"—Congress Rejects British Proposals—Triumph of American Arms—Debate in Parliament over Grant of Independence to America: Measure Opposed by the Earl of Shelburne—Letter of Thomas Paine to Shelburne: "The Setting Sun of England"—The Treaty of Peace.

THE march toward independence was not to be the triumphal progress which the sanguine Adams anticipated. A year followed of doubtful contest. Not until Burgoyne's defeat at Saratoga (October 17, 1777) did the tide turn in favor of America.

On November 18, 1777, after vague reports of Burgoyne's defeat had reached England, but before news of the completeness of the disaster was known, Lord Chatham arose in the House of Lords and delivered his last appeal to his country to desist from its vain attempt to subjugate America. The occasion was an address to the Throne congratulating the King, among other things, upon the progress of the American war. Although Chatham was in his seventieth year, the speech possessed all the fire of his youth, and indeed is reckoned by many to be the best of all his orations. It is certainly the most finished, as it is the only one which was corrected by him.

AGAINST THE AMERICAN WAR

LORD CHATHAM

I rise, my Lords, to declare my sentiments on this most solemn and serious subject. It has imposed a load upon my mind, which, I fear, nothing can remove, but which impels me to endeavor its

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sustained America; and, whether America be wrong or right, the dignity of this country ought to spurn at the officious insult of French interference. The ministers and ambassadors of those who are called rebels and enemies are in Paris; in Paris they transact the reciprocal interests of America and France. Can there be a more mortifying insult? Can even our ministers sustain a more humiliating disgrace? Do they dare to resent it? Do they presume even to hint a vindication of their honor, and the dignity of the state, by requiring the dismissal of the plenipotentiaries of America? Such is the degradation to which they have reduced the glories of England! The people whom they affect to call contemptible rebels, but whose growing power has at last obtained the name of enemies; the people with whom they have engaged this country in war, and against whom they now command our implicit support in every measure of desperate hostility—this people, despised as rebels, or acknowledged as enemies, are abetted against you, supplied with every military store, their interests consulted, and their ambassadors entertained, by your inveterate enemy! and our ministers dare not interpose with dignity or effect. Is this the honor of a great kingdom? Is this the indignant spirit of England, who "but yesterday" gave law to the house of Bourbon? My Lords, the dignity of nations demands a decisive conduct in a situation like this. Even when the greatest prince that perhaps this country ever saw filled our Throne, the requisition of a Spanish general, on a similar subject, was attended to and complied with; for, on the spirited remonstrance of the Duke of Alva, Elizabeth found herself obliged to deny the Flemish exiles all countenance, support, or even entrance into her dominions; and the Count Le Marquis, with his few desperate followers, were expelled the kingdom. Happening to arrive at the Brille, and finding it weak in defence, they made themselves masters of the place; and this was the foundation of the United Provinces.

My Lords, this ruinous and ignominious situation, where we cannot act with success, nor suffer with honor, calls upon us to remonstrate in the strongest and loudest language of truth, to rescue the ear of majesty from the delusions which surround it. The desperate state of our arms abroad is in part known. No man thinks more highly of them than I do. I love and honor the English troops. I know their virtues and their valor. I know they can achieve anything except impossibilities; and I know that the conquest of English America is an impossibility. You cannot, I venture to say it, *you cannot* conquer America. Your armies in the last war effected everything that could be effected;

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and what was it? It cost a numerous army, under the command of a most able general [Lord Amherst], now a noble Lord in this House, a long and laborious campaign, to expel five thousand Frenchmen from French America. My Lords, *you cannot conquer America*. What is your present situation there? We do not know the worst; but we know that in three campaigns we have done nothing and suffered much. Besides the sufferings, perhaps *total loss* of the Northern force, the best appointed army that ever took the field, commanded by Sir William Howe, has retired from the American lines. *He was obliged* to relinquish his attempt, and with great delay and danger to adopt a new and distant plan of operations. We shall soon know, and in any event have reason to lament, what may have happened since. As to conquest, therefore, my Lords, I repeat, it is impossible. You may swell every expense and every effort still more extravagantly; pile and accumulate every assistance you can buy or borrow; traffic and barter with every little pitiful German prince that sells and sends his subjects to the shambles of a foreign prince; your efforts are forever vain and impotent—doubly so from this mercenary aid on which you rely; for it irritates, to an incurable resentment, the minds of your enemies, to overrun them with the mercenary sons of rapine and plunder, devoting them and their possessions to the rapacity of hireling cruelty! If I were an American, as I am an Englishman, while a foreign troop was landed in my country, I never would lay down my arms—never—never—never.

Your own army is infected with the contagion of these illiberal allies. The spirit of plunder and of rapine is gone forth among them. I know it; and, notwithstanding what the noble Earl [Lord Percy] who moved the address has given as his opinion of the American army, I know from authentic information, and the *most experienced officers*, that our discipline is deeply wounded. While this is notoriously our sinking situation, America grows and flourishes; while our strength and discipline are lowered, hers are rising and improving.

But, my Lords, who is the man that, in addition to these disgraces and mischiefs of our army, has dared to authorize and associate to our arms the tomahawk and scalping-knife of the savage? to call into civilized alliance the wild and inhuman savage of the woods; to delegate to the merciless Indian the defence of disputed rights, and to wage the horrors of his barbarous war against our brethren? My Lords, these enormities cry aloud for redress and punishment. Unless thoroughly done away, it will be a stain on the national character. It is a violation of the con-

stitution. I believe it is against law. It is not the least of our national misfortunes that the strength and character of our army are thus impaired. Infected with the mercenary spirit of robbery and rapine; familiarized to the horrid scenes of savage cruelty, it can no longer boast of the noble and generous principles which dignify a soldier; no longer sympathize with the dignity of the royal banner, nor feel the pride, pomp, and circumstance of glorious war, "that make ambition virtue!" What makes ambition virtue?—the sense of honor. But in the sense of honor consistent with a spirit of plunder, or the practice of murder? Can it flow from mercenary motives, or can it prompt to cruel deeds? Beside these murderers and plunderers, let me ask our ministers, What other allies have they acquired? What other powers have they associated in their cause? Have they entered into alliance with the *king of the gipsies*? Nothing, my Lords, is too low or too ludicrous to be consistent with their counsels.

The independent views of America have been stated and asserted as the foundation of this address. My Lords, no man wishes for the due dependence of America on this country more than I do. To preserve it, and not confirm that state of independence into which your measures hitherto have driven them, is the object which we ought to unite in attaining. The Americans, contending for their rights against arbitrary exactions, I love and admire. It is the struggle of free and virtuous patriots. But, contending for independency and total disconnection from England, as an Englishman, I cannot wish them success; for in a due constitutional dependency, including the ancient supremacy of this country in regulating their commerce and navigation, consist the mutual happiness and prosperity both of England and America. She derived assistance and protection from us; and we reaped from her the most important advantages. She was, indeed, the fountain of our wealth, the nerve of our strength, the nursery and basis of our naval power. It is our duty, therefore, my Lords, if we wish to save our country, most seriously to endeavor the recovery of these most beneficial subjects; and in this perilous crisis, perhaps the present moment may be the only one in which we can hope for success. For in their negotiations with France they have, or think they have, reason to complain; though it be notorious that they have received from that power important supplies and assistance of various kinds, yet it is certain they expected it in a more decisive and immediate degree. America is in ill humor with France; on some points they have not entirely answered her expectations.

ica by France suggests a different conclusion. The most important interests of France in aggrandizing and enriching herself with what she most wants, supplies of every naval store from America, must inspire her with different sentiments. The extraordinary preparations of the House of Bourbon, by land and by sea, from Dunkirk to the Straits, equally ready and willing to overwhelm these defenceless islands, should rouse us to a sense of their real disposition and our own danger. Not five thousand troops in England! hardly three thousand in Ireland! What can we oppose to the combined force of our enemies? Scarcely twenty ships of the line so fully or sufficiently manned that any admiral's reputation would permit him to take the command of. The river of Lisbon in the possession of our enemies! The seas swept by American privateers! Our Channel trade torn to pieces by them! In this complicated crisis of danger, weakness at home, and calamity abroad, terrified and insulted by the neighboring powers, unable to act in America, or acting only to be destroyed, where is the man with the forehead to promise or hope for success in such a situation, or from perseverance in the measures that have driven us to it? Who has the forehead to do so? Where is that man? I should be glad to see his face.

You cannot conciliate America by your present measures. You cannot subdue her by your present or by any measures. What, then, can you do? You cannot conquer; you cannot gain; but you can address; you can lull the fears and anxieties of the moment into an ignorance of the danger that should produce them. But, my Lords, the time demands the language of truth. We must not now apply the flattering unction of servile compliance or blind complaisance. In a just and necessary war, to maintain the rights or honor of my country, I would strip the shirt from my back to support it. But in such a war as this, unjust in its principle, impracticable in its means, and ruinous in its consequences, I would not contribute a single effort nor a single shilling. I do not call for vengeance on the heads of those who have been guilty; I only recommend to them to make their retreat. Let them walk off; and let them make haste, or they may be assured that speedy and condign punishment will overtake them.

My Lords, I have submitted to you, with the freedom and truth which I think my duty, my sentiments on your present awful situation. I have laid before you the ruin of your power, the disgrace of your reputation, the pollution of your discipline, the contamination of your morals, the complication of calamities,

Let us wisely take advantage of every possible moment of reconciliation. Besides, the natural disposition of America herself still leans toward England; to the old habits of connection and mutual interest that united both countries. This was the established sentiment of all the Continent; and still, my Lords, in the great and principal part, the sound part of America, this wise and affectionate disposition prevails. And there is a very considerable part of America yet sound—the middle and the southern provinces. Some parts may be factious and blind to their true interests; but if we express a wise and benevolent disposition to communicate with them those immutable rights of nature and those constitutional liberties to which they are equally entitled with ourselves, by a conduct so just and humane we shall confirm the favorable and conciliate the adverse. I say, my Lords, the rights and liberties to which they are equally entitled with ourselves, *but no more*. I would participate to them every enjoyment and freedom which the colonizing subjects of a free state can possess, or wish to possess; and I do not see why they should not enjoy every fundamental right in their property, and every original substantial liberty, which Devonshire, or Surrey, or the county I live in, or any other county in England, can claim; reserving always, as the sacred right of the mother country, the due constitutional dependency of the colonies. The inherent supremacy of the state in regulating and protecting the navigation and commerce of all her subjects is necessary for the mutual benefit and preservation of every part, to constitute and preserve the prosperous arrangement of the whole empire.

The sound parts of America, of which I have spoken, must be sensible of these great truths and of their real interests. America is not in that state of desperate and contemptible rebellion which this country has been deluded to believe. It is not a wild and lawless banditti, who, having nothing to lose, might hope to snatch something from public convulsions. Many of their leaders and great men have a great stake in this great contest. The gentleman who conducts their armies, I am told, has an estate of four or five thousand pounds a year; and when I consider these things I cannot but lament the inconsiderate violence of our penal acts, our declaration of treason and rebellion, with all the fatal effects of attainder and confiscation.

As to the disposition of foreign powers which is asserted [in the King's speech] to be pacific and friendly, let us judge, my Lords, rather by their actions and the nature of things than by interested assertions. The uniform assistance supplied to Amer-

ties, foreign and domestic, that overwhelm your sinking country. Your dearest interests, your own liberties, the constitution itself, totters to the foundation. All this disgraceful danger, this multitude of misery, is the monstrous offspring of this unnatural war. We have been deceived and deluded too long. Let us now stop short. This is the crisis—the only crisis of time and situation, to give us a possibility of escape from the fatal effects of our delusions. But if, in an obstinate and infatuated perseverance in folly, we slavishly echo the peremptory words this day presented to us, nothing can save this devoted country from complete and final ruin. We madly rush into multiplied miseries, and "confusion worse confounded."

Is it possible, can it be believed, that ministers are yet blind to this impending destruction? I did hope that instead of this false and empty vanity, this overweening pride, engendering high conceits and presumptuous imaginations, ministers would have humbled themselves in their errors, would have confessed and retracted them, and, by an active, though a late, repentance, have endeavored to redeem them. But, my Lords, since they had neither sagacity to foresee, nor justice nor humanity to shun these oppressive calamities—since not even severe experience can make them feel, nor the imminent ruin of their country awaken them from their stupefaction, the guardian care of Parliament must interpose. I shall, therefore, my Lords, propose to you an amendment of the address to His Majesty, . . . to recommend an immediate cessation of hostilities, and the commencement of a treaty to restore peace and liberty to America, strength and happiness to England, security and permanent prosperity to both countries. This, my Lords, is yet in our power; and let not the wisdom and justice of your Lordships neglect the happy, and, perhaps, the only opportunity. By the establishment of irrevocable law, founded on mutual rights, and ascertained by treaty, these glorious enjoyments may be firmly perpetuated. And let me repeat to your Lordships, that the strong bias of America, at least of the wise and sounder parts of it, naturally inclines to this happy and constitutional reconnection with you. Notwithstanding the temporary intrigues with France, we may still be assured of their ancient and confirmed partiality to us. America and France cannot be congenial. There is something decisive and confirmed in the honest American that will not assimilate to the futility and levity of Frenchmen.

My Lords, to encourage and confirm that innate inclination to this country, founded on every principle of affection, as well as consideration of interest; to restore that favorable disposition

into a permanent and powerful reunion with this country; to revive the mutual strength of the empire; again to awe the House of Bourbon, instead of meanly trucking, as our present calamities compel us, to every insult of French caprice and Spanish punctilio; to reestablish our commerce; to reassert our rights and our honor; to confirm our interests, and renew our glories forever—a consummation most devoutly to be endeavored! and which, I trust, may yet arise from reconciliation with America—I have the honor of submitting to you the following amendment, which I move to be inserted after the two first paragraphs of the address:

"And that this House does most humbly advise and supplicate His Majesty to be pleased to cause the most speedy and effectual measures to be taken for restoring peace in America; and that no time may be lost in proposing an immediate opening of a treaty for the final settlement of the tranquillity of these invaluable provinces, by a removal of the unhappy causes of this ruinous civil war, and by a just and adequate security against the return of the like calamities in times to come. And this House desire to offer the most dutiful assurances to His Majesty that they will, in due time, cheerfully coöperate with the magnanimity and tender goodness of His Majesty for the preservation of his people, by such explicit and most solemn declarations and provisions of fundamental and irrevocable laws as may be judged necessary for the ascertaining and fixing forever the respective rights of Great Britain and her colonies."

In the course of this debate Lord Suffolk defended the employment of the Indians in the war, contending that, besides its *policy and necessity*, the measure was also allowable on *principle*; for that "it was perfectly justifiable to use all the means that *God and nature put into our hands!*"

Lord Chatham leaped up, exclaiming as he rose:

I am astonished—shocked! to hear such principles confessed to hear them avowed in this House, or in this country; principles equally unconstitutional, inhuman, and unchristian!

My Lords, I did not intend to have encroached again upon your attention, but I cannot repress my indignation. I feel myself impelled by every duty. My Lords, we are called upon as members of this House, as men, as Christian men, to protest against such notions standing near the Throne, polluting the

countrymen in America, of the same language, laws, liberties, and religion, endeared to us by every tie that should sanctify humanity.

My Lords, this awful subject, so important to our honor, our constitution, and our religion, demands the most solemn and effectual inquiry. And I again call upon your Lordships, and the united powers of the state, to examine it thoroughly and decisively, and to stamp upon it an indelible stigma of the public abhorrence. And I again implore those holy prelates of our religion to do away these iniquities from among us. Let them perform a lustration; let them purify this House, and this country, from this sin.

My Lords, I am old and weak, and at present unable to say more; but my feelings and indignation were too strong to have said less. I could not have slept this night in my bed, nor reposed my head on my pillow, without giving this vent to my eternal abhorrence of such preposterous and enormous principles.

Chatham's amendment lost by a vote of 97 to 24, and the address was carried.

Chatham died in the May following the speech, being more thoroughly convinced than ever, by the signing of the treaty between France and America, which took place on February 6, 1778, that Great Britain would never conquer America, and that the attempt to



A PICTORIAL VIEW OF THE STATE OF THE NATION
[For February, 1778.]

ear of Majesty. "That God and nature put into our hands!" I know not what ideas that Lord may entertain of God and nature, but I know that such abominable principles are equally abhorrent to religion and humanity. What! to attribute the sacred sanction of God and nature to the massacres of the Indian scalping-knife—to the cannibal savage, torturing, murdering, roasting, and eating—literally, my Lords, *eating* the mangled victims of his barbarous battles! Such horrible notions shock every precept of religion, divine or natural, and every generous feeling of humanity. And, my Lords, they shock every sentiment of honor; they shock me as a lover of honorable war, and a detester of murderous barbarity.

These abominable principles, and this more abominable avowal of them, demand the most decisive indignation. I call upon that right reverend bench, those holy ministers of the Gospel, and pious pastors of our Church—I conjure them to join in the holy work, and vindicate the religion of their God. I appeal to the wisdom and the law of this learned bench to defend and support the justice of their country. I call upon the bishops to interpose the unsullied sanctity of their lawn; upon the learned judges, to interpose the purity of their ermine, to save us from this pollution. I call upon the honor of your Lordships to reverence the dignity of your ancestors, and to maintain your own. I call upon the spirit and humanity of my country to vindicate the national character. I invoke the genius of the constitution. From the tapestry that adorns these walls, the immortal ancestor¹ of this noble Lord frowns with indignation at the disgrace of his country. In vain he led your victorious fleets against the boasted Armada of Spain; in vain he defended and established the honor, the liberties, the religion—the *Protestant religion*—of this country, against the arbitrary cruelties of popery and the Inquisition, if these more than popish cruelties and inquisitorial practices are let loose among us—to turn forth into our settlements, among our ancient connections, friends, and relations, the merciless cannibal, thirsting for the blood of man, woman, and child, to send forth the infidel savage—against whom? against your Protestant brethren; to lay waste their country, to desolate their dwellings, and extirpate their race and name with these horrible hell-hounds of savage war—*hell-hounds, I say, of savage war!* Spain armed herself with blood-hounds to extirpate the wretched natives of America, and we improve on the inhuman example even of Spanish cruelty; we turn loose these savage hell-hounds against our brethren and

¹Lord Edingham Howard, who was commander of the fleet in the fight with the Spanish Armada, which battle was depicted on the tapestry.

do so would result in the greatest humiliation of her history.

THE FRENCH ALLIANCE

The essential and direct end of the French-American alliance was "to maintain the liberty, sovereignty, and independence, absolute and unlimited, of the United States, as well in matters of government as of commerce."

To this treaty there was annexed a secret article, that the King of Spain (who was the uncle of Louis XVI, and had already secretly contributed supplies to America) might join the alliance at such time as he should judge it proper to do so.

Great Britain was greatly alarmed by the alliance between her ancient enemy France and the revolted colonies. Charles James Fox took this occasion to advocate coming to terms with America.

FOLLY OF THE AMERICAN WAR

CHARLES JAMES FOX

You have now two wars before you, of which you must choose one, for both you cannot support. The war against America has hitherto been carried on against her alone, unassisted by any ally whatever. Notwithstanding she stood alone, you have been obliged, uniformly, to increase your exertions and to push your efforts to the extent of your power without being able to bring it to an issue. You have exerted all your force hitherto without effect, and you cannot now divide a force found already inadequate to its object.

My opinion is for withdrawing your forces from America entirely, for a defensive war you can never think of there. A defensive war would ruin this nation at any time, and, in any circumstances, offensive war is pointed out as proper for this country. Our situation points it out, and the spirit of the nation impels us to attack rather than defend. Attack France, then, for she is our object. The nature of these wars is different. The war against America is against our own countrymen; you have stopped me from saying against your fellow-subjects. That against France is against an inveterate foe and rival. Every blow you strike in America is against yourselves. It is

against all idea of reconciliation, and against your own interest, even though you should be able, as you never will be, to force them to submit. Every stroke against France is of advantage to you. America must be conquered in France. France never can be conquered in America.

The war of the Americans is a war of passion. It is of such a nature as to be supported by the most powerful virtues—love of liberty and love of country—and at the same time by those passions in the human heart which give courage, strength, and perseverance to man—the spirit of revenge for the injuries you have done them, of retaliation for the hardships you have inflicted on them, and of opposition to the unjust powers you have exercised over them. Everything combines to animate them to this war; and such a war is without end. Whether it be called obstinacy or enthusiasm, under the name of religion or liberty, the effects are the same. It inspires a spirit which is unconquerable, solicitous to undergo difficulty, danger, and hardship. So long as there is a man in America—a being formed as we are—so long will he present himself against you in the field.

What has become of the ancient spirit of this people? Where is the national spirit that ever did honor to this country?

In accordance with Fox's appeal, or perhaps notwithstanding it, for he had the faculty of arousing antagonism to his propositions, Parliament, on February 17, 1778, passed acts removing the tax on tea, restoring the charter of Massachusetts, and appointing a commission to "treat, consult, and agree upon the means of quieting the disorders" in the colonies, and to declare an armistice pending negotiations. These acts were transmitted to General Washington in April, and by him submitted to Congress. Congress referred them to a committee, and, in pursuance of its report, refused to consider them unless Great Britain either withdrew her fleets and armies, or recognized the independence of the United States.

At last the common people of Great Britain became thoroughly aroused against the further prosecution of the war with America. Their tribune, John Wilkes, voiced their sentiments in a speech on the King's Address at the opening of Parliament in 1780.



JOHN WILKES, ESQ.

Drawn by William Hogarth

REVOLUTION, NOT REBELLION

SPEECH OF JOHN WILKES ON THE AMERICAN WAR

MR. SPEAKER—It ill becomes the duty and dignity of Parliament to lose itself in such a fulsome adulatory address to the throne as that now proposed. We ought rather to approach it with sound and wholesome advice, and even with remonstrances against the ministers who have precipitated the British nation into an unjust, ruinous, murderous, and felonious war. I call the war with our brethren in America an unjust and felonious war, because the primary cause and confessed origin of it is to attempt to take their money from them without their consent, contrary to the common rights of all mankind and to those great fundamental principles of the English constitution for which Hampden bled. I assert that it is a murderous war, because it is an effort to deprive men of their lives for standing up in the defence of their property and their clear rights. Such a war, I fear, will draw down the vengeance of heaven upon this kingdom.

Sir, is any minister weak enough to flatter himself with the conquest of America? You cannot, with all your allies, with all the mercenary ruffians of the North, you cannot effect so wicked a purpose! The Americans will dispute every inch of territory with you, every narrow pass, every strong defile, every Thermopylæ, every Bunker Hill! More than half the empire is already lost, and almost all the rest is in confusion and anarchy. We have appealed to the sword, and what have we gained? Are we to pay as dear for the rest of America? The idea of the conquest of that immense country is as romantic as it is unjust.

But "the Americans have been treated with lenity!" Will facts justify the assertion? Was your Boston "Port Bill" a measure of lenity? Was your Fishery Bill a measure of lenity? Was your bill for taking away the charter of Massachusetts a measure of lenity? I omit your many other gross provocations and insults by which the brave Americans have been driven to their present state. Whether that state is one of rebellion or of fit resistance to unlawful acts of power I shall not declare. This I know: a successful resistance is revolution, not a rebellion. Rebellion, indeed, appears on the back of a flying enemy, but revolution flames on the breastplate of the victorious warrior.

Who can tell whether, in consequence of this day's action, the scabbard may not be thrown away by them as well as by us, and, should success attend them, whether in a few years the in-

dependent American may not celebrate the glorious era of the Revolution of 1775 as we do that of 1688?

REJECTION OF BRITISH PROPOSALS

Congress presented an inspiring address to the country, instancing the peace proposals of Great Britain as evidence of her despair, though also of her rage, and warning the people not to relax their efforts for independence. It was written by Samuel Chase:

"BE NOT DECEIVED"

Be not . . . deceived. You have still to expect one severe conflict. Your foreign alliances, though they secure your independence, cannot secure your country from desolation, your habitations from plunder, your wives from insult or violation, nor your children from butchery. Foiled in their principal design, you must expect to feel the rage of disappointed ambition. Arise, then! to your tents! and gird you for battle. It is time to turn the headlong current of vengeance upon the head of the destroyer. . . . They have filled up the measure of their abominations, and like ripe fruit must soon drop from the tree. Although much is done, yet much remains to do. Expect not peace, while any corner of America is in possession of your foes. You must drive them away from this land of promise, a land flowing indeed with milk and honey. . . . For surely there is no man so absurd as to suppose that the least shadow of liberty can be preserved in a dependent connection with Great Britain. From the nature of the thing it is evident that the only security you could obtain would be the justice and moderation of a Parliament who have sold the rights of their own constituents. And this slender security is still farther weakened by the consideration that it was pledged to rebels (as they unjustly call the good people of these States) with whom they think they are not bound to keep faith by any law whatsoever. Thus would you be cast bound among men, whose minds, by your virtuous resistance, have been sharpened to the keenest edge of revenge. Thus would your children and your children's children be by you forced to a participation of all their debts, their wars, their luxuries, and their crimes. And this mad, this impious system they would lead you to adopt, because of the derangement of your finances.

It becomes you deeply to reflect on this subject. Is there

a country upon earth which hath such resources for the payment of her debts as America? such an extensive territory? so fertile, so blessed in its climate and productions? surely there is none. Neither is there any, to which the wise Europeans will sooner confide their property. What, then, are the reasons that your money hath depreciated? because no taxes have been imposed to carry on the war. Because your commerce hath been interrupted by your enemy's fleets. Because their armies have ravaged and desolated a part of your country. Because their agents have villainously counterfeited your bills. Because extortioners among you, inflamed with the lust of gain, have added to the price of every article of life. And because weak men have been artfully led to believe that it is of no value. How is this dangerous disease to be remedied? let those among you who have leisure and opportunity collect the moneys which individuals in their neighborhood are desirous of placing in the public funds. Let the several legislatures sink their respective emissions, that so, there being but one kind of bills, there may be less danger of counterfeits. Refrain a little while from purchasing those things which are not absolutely necessary, that so those who have engrossed commodities may suffer (as they deservedly will) the loss of their ill-begotten hoards, by reason of the commerce with foreign nations, which the fleets will protect. Above all, bring forward your armies into the field. Trust not to appearances of peace or safety. Be assured that, unless you persevere, you will be exposed to every species of barbarity. But if you exert the means of defence which God and nature have given you, the time will soon arrive when every man shall sit under his own vine, and under his own fig-tree, and there shall be none to make him afraid.

The sweets of a free commerce with every part of the earth will soon reimburse you for all the losses you have sustained. The full tide of wealth will flow in upon your shores, free from the arbitrary impositions of those whose interest and whose declared policy it was to check your growth. Your interests will be fostered and nourished by governments that derive their power from your grant, and will therefore be obliged, by the influence of cogent necessity, to exert it in your favor. It is to obtain these things that we call your strenuous, unremitted exertions. Yet do not believe that you have been, or can be, saved merely by your own strength. No! it is by the assistance of heaven, and this you must assiduously cultivate, by acts which heaven approves. Thus shall the power and the happiness of these sovereign, free, and independent states, founded on the

King, praying "that the war on the continent of North America might no longer be pursued for the impracticable purpose of reducing that country to obedience by force," and expressing their hope, "that the earnest desire and diligent exertion to restore the public tranquillity, of which they had received His Majesty's most gracious assurances, might, by a happy reconciliation with the revolted colonies, be forwarded and made effectual; to which great end, His Majesty's faithful Commons would be ready to give their utmost assistance."

This motion, being lost by a single vote only, was five days after renewed, by the same gentleman in a somewhat different form, and carried, whereupon the ministry resigned, in accordance with that precedent of Parliament which demands a change of government when the ministry is defeated on an important measure.

In the new administration the Marquis of Rockingham was placed at the head of the treasury, and the Earl of Shelburne and Mr. Fox held the important places of secretaries of state. This administration entered into negotiations in regard to peace with the French court and Dr. Franklin. Franklin summoned to his aid John Jay from Madrid.

While the majority of the British cabinet, including the prime minister, were determined to "offer America unlimited, unconditional independence," the Earl of Shelburne was opposed to it as the last measure to which the King would assent. When, on the death of the Marquis of Rockingham, Lord Shelburne was appointed first lord of the treasury, there was an open rupture in the cabinet, Fox and others resigning.

William Jones (afterward Sir William Jones) was sent to Paris to sound Franklin on securing peace short of an express acknowledgment of American independence. On his return he confessed himself defeated in this purpose. "The sturdy trans-atlantic yeomanry," he said, "will neither be dragooned nor bamboozled out of their liberty."

In regard to the policy of Lord Shelburne, Thomas Paine wrote the fourteenth of his papers in "The Crisis."

virtue of their citizens, increase, extend, and endure until the Almighty shall blot out all the empires of the earth.

The peace commissioners sent by Parliament to America could not believe that Congress had been sincere in its refusal even to consider their proposals, and so renewed them. When Congress adhered to its former conditions, the commissioners then addressed their proposals to the colonial assemblies and the "free inhabitants of this once happy empire"; and offered pardon to all who should, within forty days, desert the American cause. They circulated this offer among the soldiers by means of flags of truce.

Congress declared that these actions were violations of international law, and recommended the state authorities to seize the commissioners.

TRIUMPH OF AMERICAN ARMS

While General Nathaniel Greene was conducting his successful campaign in the South, the allied French and American forces under Washington and Rochambeau compelled the surrender of Lord Cornwallis at Yorktown on October 19, 1781. This brilliant achievement put an end to military operations in America.

PARLIAMENT'S PEACE PROPOSALS

In the meantime a congress of the belligerent nations was to be held at Vienna to negotiate for the reestablishment of peace. But the American minister, John Adams, utterly refused to appear at the congress except as the representative of an independent nation. In this position he was upheld by France, whereupon Great Britain, in September, 1781, refused to accept the mediation of the powers, and thus put an end to the proposal.

Parliament met on the 27th of November, 1781, and, though the speech from the throne still breathed a spirit of hostility, and answers from both Houses were procured, in accordance with it, yet not long after the recess, the ministers found themselves in a minority in the House of Commons. On the 22d of February, 1782, General Conway in the House moved an Address to the



WHAT WANTS ME?

"I am Ready & Willing to offer my Services to any Nation or People under heaven who are Desirous of Liberty & Equality."
—Vide Paine's Letter to the [French] Convention

A British cartoon published December 26, 1792

"THE SETTING SUN OF ENGLAND"

LETTER TO THE EARL OF SHELBURNE BY THOMAS PAINE

MY LORD—A speech, which has been printed in several of the British and New York newspapers as coming from Your Lordship, in answer to one from the Duke of Richmond of the tenth of July last, contains expressions and opinions so new and singular, and so enveloped in mysterious reasoning, that I address

this publication to you for the purpose of giving them a free and candid examination. The speech that I allude to is in these words:

"His Lordship said it had been mentioned in another place that he had been guilty of inconsistency. To clear himself of this he asserted that he still held the same principles in respect to American independence which he at first imbibed. He had been, and yet was, of opinion that whenever the Parliament of Great Britain acknowledges that point, the sun of England's glory is set forever. Such were the sentiments he possessed on a former day, and such the sentiments he continued to hold at this hour. It was the opinion of Lord Chatham, as well as many other able statesmen.

"Other notable Lords, however, think differently; and, as the majority of the cabinet support them, he acquiesced in the measure, dissenting from the idea; and the point is settled for bringing the matter into the full discussion of Parliament, where it will be candidly, fairly, and impartially debated. The independence of America would end in the ruin of England; and that a peace patched up with France would give that proud enemy the means of yet trampling on this country.

"The sun of England's glory he wished not to see set forever; he looked for a spark at least to be left, which might in time light us up to a new day. But if independence was to be granted, if Parliament deemed that measure prudent, he foresaw, in his own mind, that England was undone. He wished to God that he had been deputed to Congress, that he might plead the cause of that country as well as of this, and that he might exercise whatever powers he possessed as an orator to save both from ruin, by striving to convince Congress that if their independence was signed their liberties were gone forever.

"Peace, His Lordship added, was a desirable object, but it must be an honorable peace and not a humiliating one, dictated by France or insisted on by America. It was very true that this kingdom was not in a flourishing state; it was impoverished by war. But if we were not rich, it was evident that France was poor. If we were straitened in our finances, the enemy were exhausted in their resources.

"This was a great empire; it abounded with brave men who were able and willing to fight in a common cause; the language of humiliation should not, therefore, be the language of Great Britain. His Lordship said that he was not afraid nor ashamed of those expressions going to America. There were numbers, great numbers, there who were of the same way of thinking in

Ours has been the seat of war; yours has seen nothing of it. The most wanton destruction has been committed in our sight; the most insolent barbarity has been acted on our feelings. We can look round and see the remains of burned and destroyed houses, once the fair fruit of hard industry, and now the striking monuments of British brutality. We walk over the dead whom we loved, in every part of America, and remember by whom they fell.

There is scarcely a village but brings to life some melancholy thought, and reminds us of what we have suffered, and those we have lost by the inhumanity of Britain. A thousand images arise to us, which, from situation, you cannot see, and are accompanied by as many ideas which you cannot know; and therefore your supposed system of reasoning would apply to nothing, and all your expectations die of themselves.

The question whether England shall accede to the independence of America, and which Your Lordship says is to undergo a Parliamentary discussion, is so very simple, and composed of so few cases, that it scarcely needs a debate.

It is the only way out of an expensive and ruinous war, which has no object, and without which acknowledgment there can be no peace.

But Your Lordship says, "*the sun of Great Britain will set whenever she acknowledges the independence of America*"—whereas the metaphor would have been strictly just to have left the sun wholly out of the figure, and have ascribed her not acknowledging it to the influence of the moon.

But the expression, if true, is the greatest confession of disgrace that could be made, and furnishes America with the highest notions of sovereign independent importance.

Mr. Wedderburne, about the year 1776, made use of an idea of much the same kind—"Relinquish America!" says he—"What is it but to desire a giant to shrink spontaneously into a dwarf."

Alas! are those people, who call themselves Englishmen, of so little internal consequence that when America is gone or shuts her eyes upon them, their sun is set, they can shine no more, but grope about in obscurity, and contract into insignificant animals? Was America, then, the giant of the empire, and England only her dwarf in waiting?

Is the case so extremely altered that those who once thought we could not live without them are now brought to declare that they cannot exist without us?

Will they tell to the world, and that from their first minister

respect to that country being dependent on this and who, with His Lordship, perceived ruin and independence linked together."

Thus far the speech; on which I remark: That His Lordship is a total stranger to the mind and sentiments of America; that he has wrapped himself up in a fond delusion that something less than independence may, under his administration, be accepted; and he wishes himself sent to Congress to prove the most extraordinary of all doctrines, which is, that *independence*, the sublimest of all human conditions, is loss of liberty.

In answer to which we may say that, in order to know what the contrary word *dependence* means, we have only to look back to those years of severe humiliation, when the mildest of all petitions could obtain no other notice than the haughtiest of all insults; and when the base terms of unconditional submission were demanded, or undistinguishable destruction threatened.

It is nothing to us that the ministry have been changed, for they may be changed again. The guilt of a government is the crime of a whole country; and the nation that can, though but for a moment, think and act as England has done can never afterward be believed or trusted. There are cases in which it is as impossible to restore character to life as it is to recover the dead. It is a phoenix that can expire but once, and from whose ashes there is no resurrection.

Some offenses are of such a slight composition that they reach no further than the temper, and are created or cured by a thought.

But the sin of England has struck the heart of America, and nature has not left it in our power to say we can forgive.

Your Lordship wishes for an opportunity to plead before Congress *the cause of England and America, and to save*, as you say, *both from ruin*.

That the country which, for more than seven years, has sought our destruction should now cringe to solicit our protection is adding the wretchedness of disgrace to the misery of disappointment; and if England has the least spark of supposed honor left that spark must be darkened by asking, and extinguished by receiving, the smallest favor from America; for the criminal who owes his life to the grace and mercy of the injured is more executed by living than he who dies.

But a thousand pleadings, even from Your Lordship, can have no effect. Honor, interest, and every sensation of the heart would plead against you. We are a people who think not as you think; and, what is equally true, you cannot feel as we feel. The situations of the two countries are exceedingly different.

of state, that America is their all in all; that it is by her importance only they can live, and breathe, and have a being? Will they, who long since threatened to bring us to their feet, bow themselves at ours, and own that without us they are not a nation? Are they become so unqualified to debate on independence that they have lost all idea of it themselves, and are calling to the rocks and mountains of America to cover their insignificance?

Or, if America is lost, is it manly to sob over it like a child for its rattle, and invite the laughter of the world by declarations of disgrace? Surely the more consistent conduct would be to bear it without complaint; and to show that England, without America, can preserve her independence and a suitable rank with other European powers. You were not contented while you had her, and to weep for her now is childish.

But Lord Shelburne thinks something may yet be done. What that something is, or how it is to be accomplished, is a matter in obscurity. By arms there is no hope. The experience of nearly eight years, with the expense of £100,000,000 sterling and the loss of two armies, must positively decide that point.

Besides, the British have lost their interest in America with the disaffected. Every part of it has been tried. There is no new scene left for delusion; and the thousands who have been ruined by adhering to them, and have now to quit the settlements they had acquired, and be conveyed like transports to cultivate the deserts of Augustine and Nova Scotia, has put an end to all further expectations of aid.

If you cast your eyes on the people of England, what have they to console themselves with for the millions expended? Or what encouragement is there left to continue throwing good money after bad? America can carry on the war for ten years longer, and all the charges of government included, for less than you can defray the charges of war and government for one year. And I, who know both countries, know well that the people of America can afford to pay their share of the expense much better than the people of England can.

Besides, it is their own estates and property, their own rights, liberties, and government they are defending.

The British army in America care not how long the war lasts. They enjoy an easy and indolent life. They fatten on the folly of one country and the spoils of another; and, between their plunder and their pay, may go home rich.

But the case is very different with the laboring farmer, the working tradesman, and the necessitous poor in England, the

sweat of whose brow goes day after day to feed, in prodigality and sloth, the army that is robbing both them and us. Removed from the eye of the country that supports them, and distant from the government that employs them, they cut and carve for themselves, and there is none to call them to account.

But England will be ruined, says Lord Shelburne, if America is independent.

Then, I say, is England already ruined, for America is already independent; and if Lord Shelburne will not allow this, he immediately denies the fact which he infers. Besides, to make England the mere creature of America is paying too great a compliment to us, and too little to himself.

But the declaration is a rhapsody of inconsistency. For to say, as Lord Shelburne has numberless times said, that the war against America is ruinous, and yet to continue the prosecution of that ruinous war for the purpose of avoiding ruin, is a language which cannot be understood.

Neither is it possible to see how the independence of America is to accomplish the ruin of England after the war is over, and yet not effect it before. America cannot be more independent of her, nor a greater enemy to her, hereafter, than she now is; nor can England derive less advantages from her than at present. Why, then, is ruin to follow in the best state of the case, and not in the worst? And, if not in the worst, why is it to follow at all?

That a nation is to be ruined by peace and commerce, and fourteen or fifteen millions a year less expenses than before, is a new doctrine in politics. We have heard much clamor of national savings and economy; but surely the true economy would be to save the whole charge of a silly, foolish, and headstrong war; because, compared with this, all other retrenchments are baubles and trifles.

But is it possible that Lord Shelburne can be serious in supposing the least advantage can be obtained by arms, or that any advantage can be equal to the expense or the danger of attempting it?

Will not the capture of one army after another satisfy him; must all become prisoners? Must England ever be the sport of hope and the victim of delusion? Sometimes our currency was to fail; another time our army was to disband; then whole provinces were to revolt. And thus, from year to year, has every straw been caught at, and every will-with-a-wisp led them a new dance.

This year a still new folly is to take place. Lord Shelburne

on his head the ensigns of her disgust. It is kissing the hand that boxes his ears and proposes to renew the exchange.

The thought is as servile as the war is wicked and shows the last scene of the drama as inconsistent as the first.

As America is gone, the only act of manhood is to let her go. Your Lordship had no hand in the separation and you will gain no honor by temporizing politics. Besides, there is something so exceedingly whimsical, unsteady, and even insincere in the present conduct of England that she exhibits herself in the most dishonorable colors.

On the second of August last General Carlton and Admiral Digby wrote to General Washington in these words:

"The resolution of the House of Commons of the twenty-seventh of February last has been placed in Your Excellency's hands, and intimations given at the same time that further pacific measures were likely to follow. Since which, until the present time, we have had no direct communications from England; but a mail is now arrived which brings us very important information. We are acquainted, sir, by authority, that negotiations for a general peace have already commenced at Paris, and that Mr. Grenville is invested with full powers to treat with all the parties at war, and is now at Paris in the execution of his commission.

"And we are further, sir, made acquainted that His Majesty, in order to remove any obstacles to that peace which he so ardently wishes to restore, has commanded his ministers to direct Mr. Grenville that the independence of the Thirteen United Provinces should be proposed by him in the first instance, instead of making it a condition of a general treaty."

Now, taking your present measures into view and comparing them with the declaration in this letter, pray, what is the word of your King, or his ministers, or the Parliament good for? Must we not look upon you as a confederated body of faithless, treacherous men, whose assurances were fraud and their language deceit? What opinion can we possibly form of you, but that you are a lost, abandoned, profligate nation, who sport even with your own character, and to be held by nothing but the bayonet or the halter?

To say, after this, that the sun of Great Britain will be set whenever she acknowledges the independence of America, when the not doing it is the unqualified lie of government, can be no other than the language of ridicule, the jargon of inconsistency. There were thousands in America who predicted the delusion, and looked upon it as a trick of treachery, to take us from our

wishes to be sent to Congress, and he thinks that something may be done.

Are not the repeated declarations of Congress, and which all America supports, that they will not even hear any proposals whatever until the unconditional and unequivocal independence of America is recognized; are not, I say, these declarations answer enough?

But for England to receive anything from America now, after so many insults, injuries, and outrages acted toward us, would show such a spirit of meanness in her that we could not but despise her for accepting it. And so far from Lord Shelburne coming here to solicit it, it would be the greatest disgrace we could do them to offer it.

England would appear a wretch indeed, at this time of day, to ask or owe anything to the bounty of America. Has not the name of Englishman blots enough upon it without inventing more? Even Lucifer would scorn to reign in heaven by permission, and yet an Englishman can creep for only an entrance into America. Or, has a land of liberty so many charms that to be a doorkeeper in it is better than to be an English minister of state?

But what can this expected something be? Or, if obtained, what can it amount to but new disgraces, contentions, and quarrels?

The people of America have for years accustomed themselves to think and speak freely and contemptuously of English authority, and the inveteracy is so deeply rooted that a person invested with any authority from that country and attempting to exercise it here would have the life of a toad under a harrow.

They would look upon him as an interloper to whom their compassion permitted a residence. He would be no more than the Mungo of a farce; and, if he disliked that, he must set off. It would be a station of degradation, debased by our pity and despised by our pride, and would place England in a more contemptible situation than any she has yet suffered by the war.

We have too high an opinion of ourselves ever to think of yielding again the least obedience to outlandish authority; and, for a thousand reasons, England would be the last country in the world to yield it to. She has been treacherous, and we know it. Her character is gone, and we have seen the funeral.

Surely she loves to fish in troubled waters and drink the cup of contention, or she would not now think of mingling her affairs with those of America. It would be like a foolish dotard taking to his arms the bride that despises him, or who placed

guard, and draw off our attention from the only system of finance by which we can be called, or deserve to be called, a sovereign, independent people. The fraud, on your part, might be worth attempting, but the sacrifice to obtain it is too high.

There are others who credited the assurance because they thought it impossible that men who had their characters to establish would begin it with a lie. The prosecution of the war by the former ministry was savage and horrid, since which it has been mean, trickish, and delusive. The one went greedily into the passion of revenge, the other into the subtleties of low contrivances; till, between the crimes of both, there is scarcely left a man in America, be he Whig or Tory, who does not despise or detest the conduct of Britain.

The management of Lord Shelburne, whatever may be his views, is a caution to us, and must be to the world, never to regard British assurances. A perfidy so notorious cannot be hid. It stands, even in the public papers of New York, with the names of Carlton and Digby affixed to it. It is a proclamation that the King of England is not to be believed; that the spirit of lying is the governing principle of the ministry. It is holding up the character of the House of Commons to public infamy, and warning all men not to credit them. Such are the consequences which Lord Shelburne's management has brought upon his country.

After the authorized declarations contained in Carlton and Digby's letter you ought, from every motive of honor, policy, and prudence, to have fulfilled them, whatever might have been the event. It was the least atonement you could possibly make to America, and the greatest kindness you could do to yourselves; for you will save millions by a general peace, and you will lose as many by continuing the war.

COMMON SENSE.

Philadelphia, October 29, 1782.

PARLIAMENT'S ACKNOWLEDGMENT OF AMERICAN INDEPENDENCE

At last the ministry and the King realized that independence would have to be explicitly granted, and so agreed to a provisional treaty which should do this.

Preliminary treaties between Great Britain and France and Spain were also signed (on January 20, 1783). These and the American treaty were laid before

Parliament in February and precipitated a violent debate, which resulted in forcing Shelburne to resign, and, indeed, a new ministry to be appointed, the Duke of Portland becoming prime minister, and Lord North and Mr. Fox, by an extraordinary coalition, secretaries of state. In April the new administration sent David Hartley to Paris to complete the treaty. On the 15th of the same month the American Congress ratified the terms. The definitive treaty, differing little from the provisional, was signed at Paris on September 3, 1783, and was ratified by Congress on January 14, 1784.



MAGNA BRITANNIA; HER COLONIES REDUCED
From the collection in the New York Public Library

CHAPTER IX

THE CONFEDERATION

[INCLUDING TEXT OF THE ARTICLES OF CONFEDERATION]

Proposed Articles of Confederation by Dr. Benjamin Franklin [Pa.]—Report of Committee on the Confederation—Thomas Jefferson's Notes on the Debate on the Committee's Articles: Principal Speakers, Samuel Chase [Md.], John Adams [Mass.], Benjamin Harrison [Va.], James Wilson [Pa.], Dr. John Witherspoon [N. J.], Dr. Franklin, Dr. Benjamin Rush [Pa.], and Stephen Hopkins [R. I.]—The Adoption of the Articles—Text of the Articles—Speech of Dr. David Ramsay [S. C.] on "Our Independent Constitutions"—Proposal for National Revenue—Oliver Ellsworth [Ct.], James Madison [Va.], and Alexander Hamilton [N. Y.] Frame an Address on Public Revenue: "An Appeal to National Honor"—Gen. Washington's Address to the States on a Stable Government—Failure of the Plan—Congress Proposes a Commercial Treaty with Great Britain—Lord Sheffield's Speech in Opposition to Treaty: "Observations on the Commerce of the American States"—Rejection of Proposal—Ordinance of 1787 Organizing the Northwest Territory—Financial Distress of the States—George Washington on the Failure of the Confederacy.

THE need of a definite form of union was early felt, but, owing to the prevalent idea of primary allegiance to the States, was not easily agreed upon. Even before the Declaration of Independence was adopted, Dr. Franklin had, on July 21, 1775, presented to Congress a draft of Articles of Confederation as a plan of colonial union. Though not copied in the Journal of Congress, they remained on file in his handwriting, and had a considerable influence in the formation of the Articles of Confederation which were afterward adopted.

As Jefferson has stated (page 191), on June 11, 1776, Congress appointed a committee to prepare the form of a confederation to be entered into between the colonies. On July 12 the committee made its report.

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In the debate which ensued upon the report the principal speakers were: Samuel Chase [Md.], John Adams [Mass.], Benjamin Harrison [Va.], James Wilson [Pa.], Dr. John Witherspoon [N. J.], Dr. Benjamin Franklin [Pa.], Dr. Benjamin Rush [Pa.], and Stephen Hopkins [R. I.].

Jefferson has given the following notes of the debate upon the proposed Articles of Confederation:

DEBATE ON THE CONFEDERATION

NOTES OF THOMAS JEFFERSON

On Friday, July 12, the committee appointed to draw the Articles of Confederation reported them, and on the 22d the House resolved themselves into a committee to take them into consideration. On the 30th and 31st of that month and 1st of the ensuing those articles were debated which determined the proportion, or quota, of money which each State should furnish to the common treasury, and the manner of voting in Congress. The first of these articles was expressed in the original draft in these words:

"Art. XI. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare and allowed by the United States assembled, shall be defrayed out of a common treasury, which shall be supplied by the several colonies in proportion to the number of inhabitants of every age, sex, and quality, except Indians not paying taxes, in each colony—a true account of which, distinguishing the white inhabitants, shall be triennially taken and transmitted to the Assembly of the United States."

MR. CHASE moved that the quotas should be fixed, not by the number of inhabitants of every condition, but by that of the "white inhabitants." He admitted that taxation should be always in proportion to property; that this was, in theory, the true rule; but that, from a variety of difficulties, it was a rule which could never be adopted in practice. The value of the property in every State could never be estimated justly and equally. Some other measures for the wealth of the State must therefore be devised, some standard referred to, which would be more simple. He considered the number of inhabitants as a tolerably good criterion of property, and that this might always be obtained. He therefore thought it the best mode which we could adopt, with one exception only: he observed that negroes

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are property, and, as such, cannot be distinguished from the lands or personalities held in those States where there are few slaves; that the surplus of profit which a northern farmer is able to lay by, he invests in cattle, horses, etc., whereas a southern farmer lays out the same surplus in slaves. There is no more reason, therefore, for taxing the southern States on the farmer's head, and on his slave's head, than the northern ones on their farmers' heads and the heads of their cattle; that the method proposed would, therefore, tax the southern States according to their numbers and their wealth conjointly, while the northern would be taxed on numbers only; that negroes, in fact, should not be considered as members of the State, more than cattle, and that they have no more interest in it.

MR. JOHN ADAMS observed that the numbers of people are taken, by this article, as an index of the wealth of the State, and not as subjects of taxation; that, as to this matter, it was of no consequence by what name you called your people, whether by that of *freemen* or of *slaves*; that, in some countries, the laboring poor are called *freemen*, in others they were called *slaves*; but that the difference as to the State was imaginary only. What matters it whether a landlord, employing ten laborers on his farm, give them annually as much money as will buy them the necessaries of life or give them those necessaries at short hand? The ten laborers add as much wealth to the State, increase its exports as much in the one case as the other. Certainly five hundred *freemen* produce no more profits, no greater surplus for the payment of taxes than five hundred slaves. Therefore the State in which the laborers called *freemen* should be taxed no more than that in which are those called *slaves*. Suppose, by an extraordinary operation of nature or of law, one-half the laborers of a State could, in the course of one night, be transformed into slaves; would the State be made the poorer, or the less able to pay taxes? That the condition of the laboring poor in most countries—that of the fishermen particularly of the northern States—is as abject as that of slaves. It is the number of laborers which produces the surplus for taxation; and numbers, therefore, indiscriminately, are the fair index to wealth; that it is the use of the word "property" here, and its application to some of the people of the State, which produces the fallacy. How does the southern farmer procure slaves? Either by importation or by purchase from his neighbor. If he imports a slave he adds one to the number of laborers in his country, and, proportionately, to its profits and ability to pay taxes. If he buys from his neighbor it is only a transfer of a laborer from

one farm to another, which does not change the annual produce of the State and therefore should not change its tax; that if a northern farmer works ten laborers on his farm he can, it is true, invest the surplus of ten men's labor in cattle; but so may the southern farmer working ten slaves; that a State of one hundred thousand freemen can maintain no more cattle than one of one hundred thousand slaves. Therefore they have no more of that kind of property. That a slave may, indeed, from the custom of speech, be more properly called the wealth of his master than the free laborer might be called the wealth of his employer; but, as to the state, both were equally its wealth and should therefore equally add to the quota of its tax.

Mr. HARRISON proposed, as a compromise, that two slaves should be counted as one freeman. He affirmed that slaves did not do as much work as freemen and doubted if two effected more than one; that this was proved by the price of labor—the hire of a laborer in the southern colonies being from £8 to £12, while in the northern it was generally £24.

Mr. WILSON said that, if this amendment should take place, the southern colonies would have all the benefit of slaves, while the northern ones would bear the burden; that slaves increase the profits of a State, which the southern States mean to take to themselves; that they also increase the burden of defence, which would, of course, fall so much the heavier on the northern; that slaves occupy the places of freemen and eat their food. Dismiss your slaves and freemen will take their places. It is our duty to lay every discouragement on the importation of slaves; but this amendment would give the *jus trium liberorum* to him who would import slaves; that other kinds of property were pretty equally distributed through all the colonies—there were as many cattle, horses, and sheep in the north as the south, and south as the north, but not so as to slaves—that experience has shown that those colonies have been always able to pay most which have the most inhabitants, whether they be black or white; and the practice of the southern colonies has always been to make every farmer pay poll taxes upon all his laborers, whether they be black or white. He acknowledges, indeed, that freemen work the most; but they consume the most also. They do not produce a greater surplus for taxation. The slave is neither fed nor clothed so expensively as a freeman. Again, white women are exempted from labor generally, but negro women are not. In this, then, the southern States have an advantage as the article now stands. It has sometimes been said that slavery is necessary, because the commodities they raise would be too dear for

market if cultivated by freemen; but now it is said that the labor of the slave is the dearest.

Mr. PAYNE urged the original resolution of Congress to proportion the quotas of the States to the number of souls.

Dr. WITHERSPOON was of opinion that the value of lands and houses was the best estimate of the wealth of a nation, and that it was practicable to obtain such a valuation. This is the true barometer of wealth. The one now proposed is imperfect in itself and unequal between the States. It has been objected that negroes eat the food of freemen and therefore should be taxed: horses also eat the food of freemen; therefore they also should be taxed. It has been said, too, that, in carrying slaves into the estimate of the taxes the State is to pay, we do no more than those States themselves do who always take slaves into the estimate of the taxes the individual is to pay. But the cases are not parallel. In the southern colonies slaves pervade the whole colony; but they do not pervade the whole continent. That, as to the original resolution of Congress, to proportion the quotas according to the souls it was temporary only and related to the moneys heretofore emitted; whereas we are now entering into a new compact and therefore stand on original ground.

The question being put on August 1, the amendment proposed was rejected by the votes of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, against those of Delaware, Maryland, Virginia, North and South Carolina. Georgia was divided.

The other article was in these words: "Art. XVII: In determining questions, each colony shall have one vote."

July 30, 31, August 1.—Present forty-one members. Mr. CHASE observed that this article was the most likely to divide us of any one proposed in the draft then under consideration. That the larger colonies had threatened they would not confederate at all if their weight in Congress should not be equal to the numbers of people they added to the confederacy; while the smaller ones declared against a union if they did not retain an equal vote for the protection of their rights. That it was of the utmost consequence to bring the parties together, as, should we sever from each other, either no foreign power will ally with us at all or the different States will form different alliances and thus increase the horrors of those scenes of civil war and blood-

shed which, in such a state of separation and independence, would render us a miserable people. That our importance, our interests, our peace, required that we should confederate, and that mutual sacrifices should be made to effect a compromise of this difficult question. He was of opinion the smaller colonies would lose their rights if they were not in some instances allowed an equal vote, and, therefore, that a discrimination should take place among the questions which would come before Congress. That the smaller States should be secured in all questions concerning life or liberty, and the greater ones in all respecting property. He therefore proposed that, in votes relating to money, the voice of each colony should be proportioned to the number of its inhabitants.

Dr. FRANKLIN thought that the votes should be so proportioned in all cases. He took notice that the Delaware counties had bound up their delegates to disagree to this article. He thought it very extraordinary language to be held by any State that they would not confederate with us unless we would let them dispose of our money. Certainly, if we vote equally, we ought to pay equally; but the smaller States will hardly purchase the privilege at this price. That, had he lived in a State where the representation, originally equal, had become unequal by time and accident, he might have submitted rather than disturb government; but that we should be very wrong to set out in this practice when it is in our power to establish what is right. That at the time of the union between England and Scotland the latter had made the objection which the smaller States now do, but experience had proved that no unfairness had ever been shown them; that their advocates had prognosticated that it would again happen, as in times of old, that the whale would swallow Jonah; but he thought the prediction reversed in event and that Jonah had swallowed the whale; for the Scotch had, in fact, got possession of the government and gave laws to the English. He reprobated the original agreement of Congress to vote by colonies, and, therefore, was for their voting, in all cases, according to the number of taxables.

Dr. WITHERSPOON opposed every alteration of the article. All men admit that a confederacy is necessary. Should the idea get abroad that there is likely to be no union among us it will damp the minds of the people, diminish the glory of our struggle, and lessen its importance; because it will open to our view future prospects of war and dissension among ourselves. If an equal vote be refused the smaller States will become vassals to the larger, and all experience has shown that the vassals and subjects

of free states are the most enslaved. He instanced the helots of Sparta and the provinces of Rome. He observed that foreign powers, discovering this blemish, would make it a handle for disengaging the smaller States from so unequal a confederacy. That the colonies should, in fact, be considered as individuals; and that, as such, in all disputes they should have an equal vote; that they are now collected as individuals making a bargain with each other, and, of course, had a right to vote as individuals. That in the East India Company they voted by persons and not by their proportion of stock. That the Belgic confederacy voted by provinces. That in questions of war the smaller States were as much interested as the larger and therefore should vote equally; and, indeed, that the larger States were more likely to bring war on the confederacy in proportion as their frontier was more extensive. He admitted that equality of representation was an excellent principle, but then it must be of things which are coördinate, that is, of things similar and of the same nature; that nothing relating to individuals could ever come before Congress; nothing but what would respect colonies. He distinguished between an incorporating and a federal union. The union of England was an incorporating one; yet Scotland had suffered by that union: for that its inhabitants were drawn from it by the hopes of places and employments; nor was it an instance of equality of representation, because, while Scotland was allowed nearly a thirtieth of representation, they were to pay only one-fortieth of the land tax. He expressed his hopes that in the present enlightened state of men's minds we might expect a lasting confederacy if it was founded on fair principles.

JOHN ADAMS advocated the voting in proportion to numbers. He said that we stand here as the representatives of the people; that in some States the people are many, in others they are few; that, therefore, their vote here should be proportioned to the numbers from whom it comes. Reason, justice, and equity never had weight enough on the face of the earth to govern the councils of men. It is interest alone which does it and it is interest alone which can be trusted; that, therefore, the interests within doors should be the mathematical representatives of the interests without doors; that the individuality of the colonies is a mere sound. Does the individuality of a colony increase its wealth or numbers? If it does, pay equally. If it does not add weight in the scale of the confederacy, it cannot add to their rights nor weigh in argument. A has £50, B £500, C £1,000 in partnership. Is it just they should equally dispose of the moneys

of the partnership? It has been said we are independent individuals making a bargain together. The question is not what we are now, but what we ought to be when our bargain shall be made. The confederacy is to make us one individual only; it is to form us, like separate parcels of metal, into one common mass. We shall no longer retain our separate individuality, but become a single individual as to all questions submitted to the confederacy. Therefore all those reasons which prove the justice and expediency of equal representation in other assemblies hold good here. It has been objected that a proportional vote will endanger the smaller States. We answer that an equal vote will endanger the larger. Virginia, Pennsylvania, and Massachusetts are the three greater colonies. Consider their distance, their difference of produce, of interests, and of manners, and it is apparent they can never have an interest or inclination to combine for the oppression of the smaller; that the smaller will naturally divide on all questions with the larger. Rhode Island, from its relation, similarity, and intercourse, will generally pursue the same objects with Massachusetts; Jersey, Delaware, and Maryland, with Pennsylvania.

DR. RUSH took notice that the decay of the liberties of the Dutch republic proceeded from three causes: 1. the perfect unanimity requisite on all occasions; 2. their obligation to consult their constituents; 3. their voting by provinces. This last destroyed the equality of representation; and the liberties of Great Britain, also, are sinking from the same defect. That a part of our rights is deposited in the hands of our legislatures. There, it was admitted, there should be an equality of representation. Another part of our rights is deposited in the hands of Congress. Why is it not equally necessary there should be an equal representation there? Were it possible to collect the whole body of the people together they would determine the questions submitted to them by their majority. Why should not the same majority decide when voting here by their representatives? The larger colonies are so providentially divided in situation as to render every fear of their combining visionary. Their interests are different and their circumstances dissimilar. It is more probable they will become rivals and leave it in the power of the smaller States to give preponderance to any scale they please. The voting by the number of free inhabitants will have one excellent effect—that of inducing the colonies to discourage slavery and to encourage the increase of their free inhabitants.

MR. HOPKINS observed there were four larger, four smaller, and four middle sized colonies. That the four largest would con-

tain more than half the inhabitants of the confederating States, and, therefore, would govern the others as they should please. That history affords no instance of such a thing as equal representation. The Germanic body votes by states; the Helvetic body does the same; and so does the Belgic confederacy. That too little is known of the ancient confederations to say what was their practice.

MR. WILSON thought that taxation should be in proportion to wealth, but that representation should accord with the number of freemen. That government is a collection or result of the wills of all; that if any government could speak the will of all it would be perfect; and that, so far as it departs from this, it becomes imperfect. It has been said that Congress is a representation of States, not of individuals. I say that the objects of its care are all the individuals of the States. It is strange that annexing the name of "state" to ten thousand men should give them an equal right with forty thousand. This must be the effect of magic not of reason. As to those matters which are referred to Congress, we are not so many States; we are one large state. We lay aside our individuality whenever we come here. The Germanic body is a burlesque on government, and their practice on any point is a sufficient authority and proof that it is wrong. The greatest imperfection in the constitution of the Belgic confederacy is their voting by provinces. The interest of the whole is constantly sacrificed to that of the small states. The history of the war in the reign of Queen Anne sufficiently proves this. It is asked: Shall nine colonies put it into the power of four to govern them as they please? I invert the question and ask: Shall two millions of people put it into the power of one million to govern them as they please? It is pretended, too, that the smaller colonies will be in danger from the greater. Speak in honest language and say: the minority will be in danger from the majority. And is there an assembly on earth where this danger may not be equally pretended? The truth is that our proceedings will then be contemporaneous with the interests of the majority, and so they ought to be. The probability is much greater that the larger States will disagree than that they will combine. I defy the wit of man to invent a possible case, or to suggest any one thing on earth, which shall be for the interests of Virginia, Pennsylvania, and Massachusetts, and which will not also be for the interests of the other States.

The Articles of Confederation were debated from day to day, and time to time, for two years. On Novem-

ber 17, 1777, Congress, then in session at York, Pa., sent copies of the plan of Confederation to the legislatures of the States, and urged their early action upon it, saying:

"More than any other consideration it will confound our foreign enemies, defeat the flagitious practices of the disaffected, strengthen and confirm our friends, support our public credit, restore the value of our money, enable us to maintain our fleets and armies, and add weight and respect to our councils at home and to our treaties abroad.

"In short, this salutary measure can no longer be deferred. it seems essential to our very existence as a free people; and, without it, we may soon be constrained to bid adieu to independence, to liberty, and safety—blessings which, from the justice of our cause, and the favor of our Almighty Creator visibly manifested in our protection, we have reason to expect, if, in an humble dependence on His divine providence, we strenuously exert the means which are placed in our power."

The Articles were ratified on July 9, 1778, by eight States; but the ratifications were not completed until January 30, 1781, when Maryland, the last State to give her assent, empowered her delegates to subscribe and ratify the Articles. Congress assembled on the 2d of March under the new powers.

The following is the text of the Articles:

THE ARTICLES OF CONFEDERATION

TO ALL TO WHOM THESE PRESENTS SHALL COME,

We, the undersigned, Delegates of the States affixed to our names, send greeting:

WHEREAS the delegates of the United States of America in Congress assembled, did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the Independence of America, agree to certain Articles of Confederation and Perpetual Union, between the States¹ of New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz.:

¹The initial of "States" is not capitalized anywhere in the original.

Articles of Confederation and Perpetual Union, between the States of New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

Article 1. The style of this confederacy shall be, "The United States of America."

Art. 2. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

Art. 3. The said States hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon, them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Art. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States—paupers, vagabonds, and fugitives from justice, excepted—shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof, respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State from any other State, of which the owner is an inhabitant; provided, also, that no imposition, duty, or restriction shall be laid by any State on the property of the United States, or either of them.

If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence.

Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

Art. 5. For the more convenient management of the general interests of the United States, delegates shall be annually ap-

pointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the United States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

Art. 6. No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them without consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessel of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary

by the United States in Congress assembled for the defence of such State, or its trade; nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use in public stores a due number of field-pieces and tents and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such State be infested by pirates; in which case, vessels of war may be fitted out for that occasion and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

Art. 7. When land forces are raised by any State for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each State, respectively, by whom such forces shall be raised, or in such manner as such State shall direct; and all vacancies shall be filled up by the State which first made the appointment.

Art. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general warfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land, and the buildings and improvements thereon, shall be estimated, according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several

States within the time agreed upon by the United States in Congress assembled.

Art. 9. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances; provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding, in all cases, what captures, on land or water, shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of capture; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise, between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent, of any State in controversy with another shall present a petition to Congress stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and,

if either party shall neglect to attend at the day appointed, without showing reason which Congress shall judge sufficient, or, being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and, if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall, in like manner, be final and decisive—the judgment or sentence, and other proceedings, being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "*well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward*"; provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more States, whose jurisdiction, as they may respect such lands, and the States which passed such grants, are adjusted, the said grants, or either of them, being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated; establishing and regulating post-offices from one State to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing

all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated "a committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years—to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money or emit bills on the credit of the United States, transmitting, every half year, to the respective States an account of the sums of money so borrowed or emitted—to build and equip a navy—to agree upon the number of land forces, and to make requisition from each State for its quota, in proportion to the number of white inhabitants in such State; which requisitions shall be binding; and thereupon the legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but, if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped shall march to the place appointed and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war; nor grant letters of marque and reprisal in time of peace; nor enter into any treaties or alliances; nor coin money; nor regulate the value thereof; nor ascertain the sums and ex-

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by this Confederation, are submitted to them. And the articles of this Confederation shall be inviolably observed by every State, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the legislature of every State.

RATIFICATION

And whereas it has pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress to approve of and to authorize us to ratify the said Articles of Confederation and Perpetual Union: *Know ye*, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents that they shall abide by the determinations of the United States in Congress assembled on all questions which by the said Confederation are submitted to them, and that the articles thereof shall be inviolably observed by the States we respectively represent; and that the union shall be perpetual.

In witness whereof, we have hereunto set our hands, in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the Independence of America.

On July 4, 1778, Dr. David Ramsay delivered at Charleston, S. C., an eloquent and scholarly oration, in which he dwelt particularly upon the advantages which would result to the States from their recent adoption of new constitutions, and the confederacy which they had adopted to maintain their common independence. It was afterward published with a dedication to Governor Christopher Gadsden as one who, "fearless of danger, undaunted by opposition, uninfluenced by the hope of reward, in the worst of times, has stood among the foremost, an early, active, zealous, disinterested champion in the cause of American Liberty and Independence."

penses necessary for the defence and welfare of the United States, or any of them; nor emit bills; nor borrow money on the credit of the United States; nor appropriate money; nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised; nor appoint a commander-in-chief of the army or navy—unless nine States assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as, in their judgment, require secrecy; and the yeas and nays of the delegates of each State on any question shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

Art. 10. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with, provided that no power be delegated to the said committee for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

Art. 11. Canada, according to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this union; but no other colony shall be admitted into the same unless such admission be agreed to by nine States.

Art. 12. All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of Congress, before the assembling of the United States in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith, are hereby solemnly pledged.

Art. 13. Every State shall abide by the determination of the United States in Congress assembled, on all questions which,

Owing to its revelation of the light in which the question of sovereignty was viewed by one who was born and educated in the North, where also he was engaged in his profession, and who had entered into both professional and political activities in the South, the oration is a most significant document in its bearing upon the State Rights issue.

The following text of the speech is but a small portion of the address, since only those extracts are presented which bear upon constitutional matters.

OUR INDEPENDENT CONSTITUTIONS

DR. DAVID RAMSAY

We are the first people in the world who have had it in their power to choose their own form of government. Constitutions were forced on all other nations by the will of their conquerors, or they were formed by accident, caprice, or the overbearing influence of prevailing parties or particular persons. But, happily for us, the bands of British Government were dissolved at a time when no rank above that of freemen existed among us, and when we were in a capacity to choose for ourselves among the various forms of government, and to adopt that which best suited our country and people. Our deliberations on this occasion were not directed by the overgrown authority of a conquering general, or the ambition of an aspiring nobility, but by the pole star of public good, inducing us to prefer those forms that would most effectually secure the greatest portion of political happiness to the greatest number of people. We had the example of all ages for our instruction, and many among us were well acquainted with the causes of prosperity and misery in other governments.

In times of public tranquillity, the mighty have been too apt to encroach on the rights of the many, but it is the great happiness of America that her independent constitutions were agreed upon by common consent at a time when her leading men needed the utmost support of the multitude, and therefore could have no other object in view but the formation of such constitutions as would best suit the people at large, and unite them most heartily in repelling common dangers.

As the strength of a people consists in their numbers, our separate States, sensible of their weakness, were actually excited by self-interest to form such free governments as would

encourage the greatest influx of inhabitants. In this manner an emigration has virtually taken place in all the thirteen States, each contending with the others who should form the freest constitution. Thus independence has been the fruitful parent of governments formed on equal principles, more favorable to the liberty and happiness of the governed than any that have yet been recorded in the annals of history.

Our independent constitutions, formed on the justest principles, promise fair to give the most perfect protection to life, liberty, and property, equally to the poor and the rich. As at the conflagration of Corinth, the various melted metals running together formed a new one called Corinthian brass, which was superior to any of its component parts; in like manner, perhaps, it is the will of Heaven that a new empire should be here formed of the different nations of the old world which will rise superior to all that have gone before it and extend human happiness to its utmost possible limits. None can tell to what perfection the arts of government may be brought. May we not therefore expect great things from the patriots of this generation, jointly coöperating to make the new-born Republic of America as complete as possible? Is it not to be hoped that human nature will here receive her most finished touches? That the arts and sciences will be extended and improved? That religion, learning, and liberty will be diffused over this continent? and, in short, that the American editions of the human mind will be more perfect than any that have yet appeared? Great things have been achieved in the infancy of states; and the ardor of a new people rising to empire and renown with prospects that tend to elevate the human soul encourages these flattering expectations.

Should any puny politician object that all these prospects are visionary, till we are certain of independence, I reply that we have been in possession of it for two years and are daily more able to support it, and our enemies less able to overturn it. When we first dared to contend with Britain we were a loose, disappointed people under no other government but that of a well-regulated mob. If, in these circumstances we were able to defend ourselves, what may we not expect when we can draw forth our whole strength in a regular constitutional manner? If the maiden courage of our new levies has successfully withstood the well-trained bands of our enemies, can we distrust when three campaigns have made them equal in

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happiness to a great continent. It is now our turn to figure on the face of the earth and in the annals of the world. The arts and sciences are planted among us, and, fostered by the auspicious influence of equal governments, are growing up to maturity, while truth and freedom flourish by their sides. Liberty, both civil and religious, in her noontide blaze shines forth with unclouded luster on all ranks and denominations of men.

Ever since the Flood true religion, literature, arts, empire, and riches have taken a slow and gradual course from east to west, and are now about fixing their long and favorite abode in this new western world. Our sun of political happiness is already risen, and hath lifted its head over the mountains, illuminating our hemisphere with liberty, light, and polished life. Our independence will redeem one-quarter of the globe from tyranny and oppression and consecrate it to the chosen seat of truth, justice, freedom, learning, and religion. We are laying the foundation of happiness for countless millions. Generations yet unborn will bless us for the blood-bought inheritance we are about to bequeath them. Oh happy times! Oh glorious days! Oh kind, indulgent, bountiful Providence, that we live in this highly favored period, and have the honor of helping forward these great events, and of suffering in a cause of such infinite importance!

PROPOSAL FOR NATIONAL REVENUE

One of the first matters which claimed the attention of Congress after the treaty of peace was the restoration of public credit and the establishment of funds for the payment of the debts incurred by the war.

Congress turned to customs duties as the most available means of securing funds to care for these obligations. It had, however, no power to levy a tariff without the assent of all the States.

After much debate, on the 18th of April, 1783, it recommended to the States to vest Congress with power to levy certain specified duties on spirits, wines, teas, pepper, sugar, molasses, cocoa, and coffee, and a flat duty of five per cent. *ad valorem* on all other imported goods.

These duties were to be applied solely to the payment of the interest and principal of the public debt, and for

discipline with those with whom they are to contend? Such is the situation of Britain that, were we only able to keep up the appearance of an army, she could not afford to protest the war. But, instead of this, our troops are more numerous, better disciplined, clothed, and armed than they ever were. The most timid may dismiss all their doubts since Louis XVI of France, that illustrious protector of the rights of human nature, with a magnanimity worthy of himself, has guaranteed to us our independence. If Britain could not subdue America when she stood single and alone, how abortive must all her attempts prove when we are aided by the power of the greatest European monarch?

The special interposition of Providence in our behalf makes it impious to disbelieve the final establishment of our heaven-protected independence. Can any one seriously review the beginning, progress, and present state of the war and not see indisputable evidence of an overruling influence on the minds of men preparing the way for the accomplishment of this great event?

As all the tops of corn in a waving field are inclined in one direction by a gust of wind, in like manner the Governor of the World has given one and the same universal bent of inclination to the whole body of our people. Is it a work of man that thirteen States, frequently quarreling about boundaries, clashing in interests, differing in policy, manners, customs, forms of government, and religion, scattered over an extensive continent, under the influence of a variety of local prejudices, jealousies, and aversions, should all harmoniously agree, as if one mighty mind inspired the whole?

Our enemies seemed confident of the impossibility of our union; our friends doubted it, and all indifferent persons who judged of things present by what has heretofore happened considered the expectation thereof as romantic; but He who sitteth at the helm of the universe, and who boweth the hearts of a whole nation as the heart of one man, for the accomplishment of His own purposes, has effected that which to human wisdom and foresight seemed impossible. A review of the history of America, from its first discovery to the present day, forces upon us a belief that greater blessings are reserved for this continent than she ever could have possessed while lying low at the foot of an European island.

We have laid the foundations of a new empire which promises to enlarge itself to vast dimensions and to give

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that purpose they were to continue twenty-five years; the collectors to be chosen by the States, but to be removable by Congress.

The States were also required to establish for the same time, and for the same object, substantial and effectual revenues of such nature as they should judge convenient; the proportion of each State to be fixed according to the number of white and other free citizens, including those bound to servitude for a term of years, and three-fifths of all other persons.

This system was not to take effect until acceded to by every State, and when adopted by all to be a mutual compact among the States, and irrevocable by anyone without the consent of the whole or of a majority of the United States in Congress.

To enforce the importance and necessity of adopting and carrying into effect this system of finance, Congress presented an address to the States. This was prepared by a committee consisting of Oliver Ellsworth, James Madison, and Alexander Hamilton.

AN APPEAL TO NATIONAL HONOR

BY CONGRESS

After explaining the system itself, the address prepared for Congress by Ellsworth, Madison, and Hamilton appealed to the gratitude and pride, as well as justice and plighted faith of the nation. It urged particularly the propriety of the provision recommended for the payment of the national debt. "If other motives than that of justice," it said, "could be requisite, on this occasion, no nation could ever feel stronger; for to whom are the debts to be paid?"

To an ally, in the first place, who, to the exertion of his arms in support of our cause, has added the success of his treasure; who, to his important loans, has added liberal donations; and whose loans themselves carry the impression of his magnanimity and friendship.

To individuals in a foreign country, in the next place, who were the first to give us precious tokens of their confidence in

our justice, and of their friendship for our cause, and who are members of a republic which was second in expounding our rank among nations.

Another class of creditors is that illustrious and patriotic band of fellow citizens, whose blood and whose bravery have defended the liberties of their country, who have patiently borne, among other distresses, the privation of their stipends, while the distresses of their country disabled it from bestowing them, and who even now ask for no more than such a portion of their dues as will enable them to retire from the field of glory into the bosom of peace and private citizenship, and for such effectual security for the residue of their claims as their country is now unquestionably able to provide.

The remaining class of creditors is composed partly of such of our fellow citizens as originally lent to the public the use of their funds, or have since manifested most confidence in their country by receiving transfers from the lenders, and partly of those whose property has been either advanced or assumed for the public service. To discriminate the merits of these several descriptions of creditors would be a task equally unnecessary and invidious. If the voice of humanity plead more loudly in favor of some than of others, the voice of policy, no less than justice, pleads in favor of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its frugeness, and its resources, when either of them is distrusted, to suffer by the event.

Let it be remembered finally that it has ever been the pride and boast of America that the rights for which she contended were the rights of human nature. By the blessing of the author of these rights, or the means exerted for their defence, they have prevailed against all opposition, and form the basis of thirteen independent States. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of republican government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view the citizens of the United States are responsible for the greatest trust ever confided to a political society.

If justice, good faith, honor, gratitude, and all other qualities which ennoble the character of a nation and fulfill the ends of government be the fruits of our establishments, the cause of liberty will acquire a dignity and luster which it has never yet enjoyed, and an example will be set which

cannot but have the most favorable influence on the rights of mankind.

If, on the other side, our government should be unfortunately blotted with the reverse of those cardinal and essential virtues, the great cause which we have engaged to vindicate will be dishonored and betrayed; the last and fairest experiment in favor of the rights of human nature will be turned against them, and their patrons and friends exposed to be insulted and silenced by the votaries of tyranny and usurpation.

WASHINGTON ON A STABLE GOVERNMENT

The propriety and necessity of adopting this system were strongly pressed upon the States by General Washington in a circular letter dated June 8, 1783, giving notice of his intended resignation, and congratulating the States on the happy termination of the war, and on the numerous advantages and blessings which, as a free and independent nation, they had now a right to expect. Having in the course of the war experienced, and at times too fatally experienced, the evils arising from a failure, on the part of the States, to comply with the requisitions of Congress, he reminded them that whether those advantages and blessings would be realized depended, in a great measure, on themselves, on their prompt and mutual coöperation in promoting the great interests of the Union. He considered four things as essentially necessary to the existence of the United States as an independent power.

1. An indissoluble union of the States under one federal head.
2. A sacred regard to justice.
3. The adoption of a proper peace establishment.
4. The prevalence of that peace and friendly disposition, among the people of the United States, which would induce them to forget their local prejudices and policies, to make those mutual concessions which were requisite to the general prosperity; and, in some instances, to sacrifice their individual advantages to the interest of the community.

FAILURE OF THE PLAN

This plan, however, though thus ably supported and recommended, was never accepted by the States in such a manner as to go into operation. The pressure of common danger being removed, the bond of federal union became weak and feeble, and the inefficiency of the national government more apparent. A jealousy between the State and general governments began to exist; and State interests predominated. The importing States levied contributions on their neighbors for their own benefit, and some of them would not relinquish the advantages of their local situation. Congress, indeed, had power to make treaties with foreign nations, but none to enforce the observance of them; they had power to contract debts, but were unable to enforce the collection of money for the payment of them. For this they were dependent on the will of thirteen distinct legislative bodies.

That part of the financial plan which required from the States a pledge of internal revenues for twenty-five years met with the greatest opposition. Congress was at length satisfied that a general compliance with this part of the system was not to be expected, and confined its requests to that relating to duties on imports. In 1786 all the States except New York had complied with this part of the system. The operation of the acts passed by some of the States, however, depended on similar acts from the others. The State of New York, instead of vesting Congress with the power of levying the duties, reserved this right to itself agreeably to a law passed in 1784; and also refused to make the collectors amenable to and removable by Congress.

While this system of revenue was under the consideration of the States, Congress could do nothing more than make requisitions, and, as those were not complied with, the interest of the domestic debt remained unpaid; and the money borrowed in Europe was applied to the payment of interest on foreign loans. In this situation the domestic debt was deemed of little value, and was sold for about one-tenth of its nominal amount.

COMMERCIAL NEGOTIATIONS WITH GREAT BRITAIN

Soon after the ratification of the treaty with Great Britain, Congress turned their attention to the subject of commercial intercourse with that nation.

But Great Britain refused to enter into a commercial treaty. Her statesmen could not be persuaded that the Americans would ever be united among themselves, or be able to form any lasting or beneficial engagements with other nations, not only for want of union, but from opposing interests, and from the imperfect powers of their general government. On this subject Lord Shelbourn no doubt spoke the language of Englishmen in general when he said, in his "Observations on the Commerce of the American States":

It will not be an easy matter to bring the American States to act as a nation; they are not to be feared as such by us. . . . Their climate, their staples, their manners are different; their interests opposite, and that which is beneficial to one is destructive to the other. . . . In short, every circumstance proves that it will be extremely folly to enter into any engagements by which we may not wish to be bound hereafter. . . . No treaty can be made with the American States that can be binding on the whole of them. The act of confederation does not enable Congress to form more than general treaties—at the moment of the highest authority of Congress the power in question was withheld by the several States. No treaty that could be made could suit the different interests. When treaties are necessary, they must be made with the States respectively. Each State has reserved every power relative to imports, exports, prohibitions, duties, &c., to itself. But no treaty at present is necessary. We trade with several very considerable nations without commercial treaties.

In accordance with this policy, in July, 1783, the British Government issued orders in council for regulating the trade between the United States and the British dominions. American vessels thereby were entirely excluded from the British West Indies; and certain articles from the States such as fish, beef, pork, &c., were not allowed to be carried there, even in British bottoms. This prohibition was continued by temporary acts until

1788, when it was permanently established by act of Parliament.

Difficulties with Great Britain were not confined to regulations respecting commerce. Serious disputes soon arose concerning the execution of the treaty of peace; and each nation complained of infractions by the other.

Congress, in order to remove the difficulties complained of, in March, 1787, unanimously declared that all the acts, or parts of acts, existing in any of the States, repugnant to the treaty of peace, ought to be repealed; and they recommended to the States to make such repeal by a general law. They at the same time unanimously resolved "that the legislatures of the several States cannot of right pass any act or acts for interpreting, explaining, or construing a national treaty or any part or clause of it; nor for restraining, limiting, or in any manner impeding, retarding, or contracting the operation and execution of the same; for that, on being constitutionally made, ratified, and published, they become, in virtue of the Confederation, part of the law of the land, and are not only independent of the will and power of such legislatures, but also binding and obligatory on them."

In consequence of these declarations the States having laws against the treaty abolished these, save Virginia, which did so provisionally upon Great Britain fulfilling her obligations, and South Carolina, which observed that the subjects of Great Britain had encountered no other difficulties, or impediments, in the recovery of their debts, than had the citizens of America; that such was the situation of the State the legislature had conceived it necessary to pass laws tantamount to shutting the courts.

The British court was not yet disposed to enter into any commercial treaty with the United States, the ministers being, no doubt, satisfied that the advantages they enjoyed under their own regulations were greater than could be obtained by any treaty they could make with America.

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with the general interest of the confederation, such State, however, might be admitted as a member of the Union with a less number than sixty thousand free inhabitants.

By the last article it was provided there should be neither slavery nor involuntary servitude in the Territory otherwise than in the punishment of crimes, of which the party should have been duly convicted.¹

FINANCIAL DISTRESS OF THE STATES

While Congress was thus forming a government for the Territory and laying the foundation of future new States at the west, it had lost all authority over the old States at the east. Many causes combined, at this period, to produce great distress, discontent, and disaffection in different parts of the Union. The General Government, as before stated, was totally inefficient, and the authority of the State governments greatly weakened, and in some instances almost destroyed.

In addition to the debts of the Union, the States individually had also incurred large debts during the war, for the payment of which they were called upon by their creditors. Immediately after peace, in consequence of large importations of foreign goods, particularly from Great Britain, large debts were contracted by individuals, and which, from the want of internal as well as external resources, they were unable to pay. The people were pressed at the same time for the payment of the debts of the Union, of the individual States, and of their own private debts. The courts of justice, which had been shut during the war, were filled with private suits. Under these circumstances, some of the States had recourse to the desperate expedient of paper money; others made personal property a tender, at an appraised value, in satisfaction of debts; and, in Massachusetts, not only were the judges in several counties prevented from holding courts, but the Government itself, in other respects, was set at defiance by an open and formidable insurrection of the people (Shay's Rebellion).

¹ Nathan Dane, of Massachusetts, was the author of this article.

ORGANIZATION OF THE NORTH-WEST TERRITORY

The people of the United States had viewed the Western lands as a fund to aid in the payment of the national debt. Congress, therefore, in April, 1783, called upon those States who had not yet complied with their former requests on this subject to make liberal cessions of their territorial claims.

After a great deal of controversy the States claiming Western lands ceded these to the Federal Government; and Congress, in July, 1787, organized the North-West Territory, composed of the region now occupied by the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, establishing an ordinance for its government. This ordinance remains the basis of the governments established by Congress in all the Territories of the United States. By it Congress established certain articles of compact, between the original States and the people in the territory, and which were to remain unalterable, unless by common consent. By these no person in the territory was ever to be molested on account of his mode of worship or religious sentiments; and every person was entitled to the benefits of the writ of habeas corpus, trial by jury, and all those other fundamental rights usually inserted in American bills of rights. Schools and the means of education were forever to be encouraged, and the utmost good faith to be observed toward the Indians; particularly their lands and property were never to be taken from them without their consent. The territory, and the States that might be formed therein, were forever to remain a part of the American confederacy; but not less than three nor more than five States were to be established.

It was also provided that, whenever in any of those States there should be sixty thousand free inhabitants, such State was to be admitted into the Union, on the same footing with the original States in all respects whatever; and be at liberty to form a permanent constitution and State government; such constitution and government, however, was to be republican and conformable to the principles of the articles. If consistent

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WASHINGTON ON FAILURE OF THE CONFEDERACY

The enemies of the Revolution, who had predicted that the Americans, when separated from their parent country, would be unable to govern themselves, but fall into confusion, now secretly rejoiced at the verification of their predictions. Its friends began almost to despair of the commonwealth, and at times were led to doubt whether the people of America were indeed capable of self-government. Some, indeed, suggested that it might be necessary for the country to adopt a monarchical form of government. In reference to this suggestion General Washington said in a letter to John Jay:

What astonishing changes a few years are capable of producing! I am told that even respectable characters speak of a monarchical form of government without horror. From thinking proceeds speaking, thence to acting is often but a single step. But how irrevocable and tremendous! What a triumph for our enemies to verify their predictions! What a triumph for the advocates of despotism to find that we are incapable of governing ourselves, and that systems founded on the basis of equal liberty are merely ideal and fallacious! Would to God that wise measures may be taken in time to avert the consequences we have but too much reason to apprehend.

CHAPTER X

THE CONSTITUTIONAL CONVENTION

[PLANS OF GOVERNMENT]

First Proposal of the Constitution—Pelatiah Webster [Pa.] on Defects of the Confederation—Webster's Comparison of the Adopted Constitution with That Which He Had Proposed—George Washington on the Necessary Change in the Federal Government—Resolutions of Virginia—Suggestion of John Jay to Call a Convention to Revise the Articles of Confederation—The Annapolis Convention—It Issues Call for a Constitutional Convention—New York Legislature Votes upon Alexander Hamilton's Resolution to Give Congress Power to Levy Federal Duties on Imports—His Speech: "On Granting Taxing Powers to Congress"—Resolve of Constitutional Convention to Form an Entirely New Government—Plans of Government by Edmund Randolph and Charles Pinckney—Letter of James Madison to Randolph—The Plans Are Referred to a Committee—Its Resolutions—Plan of William Paterson.

THE Articles of Confederation were the result of an old order of what might be called colonial statesmanship that was admirably adapted to secure the independence of the several States, but was woefully inadequate for the still greater task of welding them into a nation. To save the country from the anarchy into which it had fallen required a new order of what might be called national statesmanship in which the lead was taken by young men and those older persons whose political activities had begun with the movement for national independence. Of the younger men of this order, James Madison, Alexander Hamilton, and Charles Pinckney were the most influential in devising plans of government in which the principle of federation was subordinated to that of nationality. Of the older representatives, the most influential was a man with a type of mind new to the country, the politico-economic as distinguished from the purely political, and whose genius, therefore,

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cases the right is the same, but the exercise of the right is different; and this difference produced the most momentous consequences."

And William E. Gladstone said in the same tenor: "As the British Constitution is the most subtle organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of a man."

Other American historians and students of the origin of the Constitution do not view the plan of the Constitution so much of an "invention" as an almost necessary and even obvious development of the conditions of the time, one which arose naturally in the minds of all the constructive (as opposed to initiative) minds which set themselves freshly at work upon the problem. Thus George Ticknor Curtis, in his "History of the Origin, Formation, and Adoption of the Constitution" (1854), says: "The Constitution of the United States was eminently the creature of circumstances—not of circumstances blindly leading the blind to an unconscious submission to an accident, but of circumstances which offered an intelligent choice of the means of happiness, and opened, from the experience of the past, the plain path of duty and success stretching onward to the future."

According to this view Webster's plan of the Constitution was simply a formulation of the ideas which were "in the air" during the period, being generated all over the country by the formation of the State constitutions and applied from these to the obviously needed new Federal Constitution by such constructive minds as James Madison of Virginia, Charles Pinckney of South Carolina, and Alexander Hamilton of New York. Nevertheless Webster is certainly entitled to the credit of presenting the plan first, and in a thoroughly elaborated form.

In a note upon his "Dissertation," published in his collected writings (1791), Webster tells how he came to write the work. It was, he said, because of the failure of the Confederation.

was little appreciated and correspondingly unrecognized up to this period—and, indeed, not adequately so until 1911, when probably more than justice was done him by the Hon. Hannis Taylor in his "The Origin and Growth of the American Constitution." This was Pelatiah Webster, to whom Mr. Taylor ascribes the entire merit of "inventing" the plan of the Constitution, and whose book presenting the invention he styles "the epoch-making achievement," which "must forever stand forth as a beacon light in the world's political history."

In October, 1776, Webster published an essay, in which he strongly urged the laying of a tax to provide for the speedy redemption of the continental bills of credit—a plan, however, which could not be followed owing to the fact that the powers of Congress were only advisory, and not mandatory upon the States. Undoubtedly the failure to adopt his plan, and the consequent disaster to the country, directed Webster's attention to the need of recognizing the Federal Government so that it should have the supreme essential of sovereignty—-independent power. Though his succeeding work was in the field of economics—"Essays on Free Trade and Finance"—in one of the seven essays contained in this work he proposed the calling of a "Constitutional Convention" for making an entirely new Constitution. This essay was published in May, 1781. Two years later (in February, 1783) Webster "humbly offered to the public" an anonymous "Dissertation on the Political Union and Constitution of the Thirteen United States of North America Which Is Necessary to Their Preservation and Happiness," by "a Citizen of Philadelphia."

The view of Taylor that the American Constitution was an "invention" is held by many other writers, native and foreign, on the subject.

Alexis de Tocqueville, in his book "On Democracy in America" (1835), says of the Constitution that it was based "upon a wholly novel theory which may be considered a great discovery in modern political science. . . . The American States, which combined in 1789, agreed that the Federal Government should not only dictate, but should execute its own enactments. In both

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GREAT AMERICAN DEBATES

DEFECTS OF THE CONFEDERATION

PELATIAH WEBSTER

Forming a plan of confederation or a system of general government of the United States engrossed the attention of Congress from the Declaration of Independence, July 4, 1776, till the same was completed by Congress, July 9, 1778, and recommended to the several States for ratification, which finally took place March 1, 1781, from which time the said confederation was considered as the grand constitution of the general government, and the whole administration was conformed to it.

And as it had stood the test of discussion in Congress for two years before they completed and adopted it, and in all the States for three years more before it was finally ratified one would have thought that it must have been a very finished and perfect plan of government.

But on trial of it in practice it was found to be extremely weak, defective, totally inefficient, and altogether inadequate to its great ends and purposes, for

1. It blended the legislative and executive powers together in one body.
2. This body, viz.: Congress, consisted of but one house, without any check upon their resolutions.
3. The powers of Congress in very few instances were definite and final; in the most important articles of government they could do no more than recommend to the several States, the consent of every one of which was necessary to give legal sanction to any act so recommended.
4. They could assess and levy no taxes.
5. They could institute and execute no punishments except in the military department.
6. They had no power of deciding or controlling the contentions and disputes of different States with each other.
7. They could not regulate the general trade; or,
8. Even make laws to secure either public treaties with foreign states, or the persons of public ambassadors, or to punish violations or injuries done to either of them.
9. They could institute no general judiciary powers.
10. They could regulate no public roads, canals, or inland navigation, etc., etc., etc.

And what caps all the rest was that (while under such an inefficient political constitution the only chance we had of any tolerable administration lay wholly in the prudence

and wisdom of the men who happened to take the lead in our public councils) it was fatally provided by the absurd doctrine of rotation that if any member of Congress by three years' experience and application had qualified himself to manage our public affairs with consistency and fitness, that he should be constitutionally and absolutely rendered incapable of serving any longer, till by three years' discontinuance he had pretty well lost the cue or train of the public counsels and forgot the ideas and plans which made his service useful and important, and in the meantime his place should be supplied by a fresh man who had the whole matter to learn, and when he had learned it was to give place to another fresh man, and so on to the end of the chapter.

The sensible mind of the United States by long experience of the fatal mischief of anarchy, or (which is about the same thing) of this ridiculous inefficient form of government, began to apprehend that there was something wrong in our policy which ought to be redressed and mended, but nobody undertook to delineate the necessary amendments.

I was then pretty much at leisure, and was fully of opinion (though the sentiment at that time would not very well bear) that it would be ten times easier to form a new Constitution than to mend the old one. I therefore sat myself down to sketch out the leading principles of that political constitution which I thought necessary to the preservation and happiness of the United States of America, which are comprised in this Dissertation.

I hope the reader will please consider that these are the original thoughts of a private individual, dictated by the nature of the subject only, long before the important theme became the great object of discussion in the most dignified and important assembly which ever sat or decided in America.

The "Dissertation" is a treatise on the nature of government so sound and searching that, while many of its propositions were not embodied in the Constitution, they all, in one form or another, have arisen as political issues in our national history. Besides the strictly Constitutional proposals there may be mentioned the following subjects of interest and importance to the student of politics:

Trade a chief concern of Government.

Supreme importance of the taxing power.

Retention of efficient officers in the public service

Hannis Taylor's "Origin and Growth of the American Constitution."

COMPARISON OF THE ADOPTED CONSTITUTION WITH THAT PROPOSED BY WEBSTER

At the time when this Dissertation was written (February 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged. It was manifest, not only that the internal policy, justice, security, and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support that no public movement which depended on the revenue could be managed with any effectual certainty; but though the public mind was under full conviction of all these mischiefs and was contemplating a remedy, yet the public ideas were not at all concentrated, much less arranged into any new system or form of government which would obviate these evils. Under these circumstances I offered this Dissertation to the public. How far the principles of it were adopted or rejected in the new Constitution, which was four years afterwards (September 17, 1787) formed by the general convention and since ratified by all the States, is obvious to every one.

I wish here to remark the great particulars of my plan which were rejected by the convention.

1. My plan was to keep the legislative and executive departments entirely distinct; the one to consist of the two Houses of Congress, the other to rest entirely in the Grand Council of State.

2. I proposed to introduce a Chamber of Commerce, to consist of merchants who should be consulted by the legislature in all matters of trade and revenue, and which should have the conducting the revenue committed to them.

The first of these the convention qualified; the second they say nothing of, i. e., take no notice of it.

3. I proposed that the great officers of state should have the perusal of all bills before they were enacted into laws, and should be required to give their opinion of them as far as they affected the public interest in their several departments, which report of them Congress should cause to be read in their respective Houses and entered on their minutes. This is passed over without notice.

4. I proposed that all public officers appointed by the

vs. rotation in office (a point in the discussion of Civil Service).

Frequent elections as a check on inefficiency and misconduct of public officers (a point in the discussion of the Recall).

The value of land, being created by population, as a natural and just standard of determining contributions to public revenue (a point in the discussion of the "Single Tax").

Unsettled lands the common property of the nation. Open and thorough discussions in legislative bodies as a check on the election of knavish wire-pulling politicians, and upon hasty and ill-advised legislation.

Advantages of two chambers in legislative bodies over one in the above respect.

Departments of investigation to give information to Congress as an important feature of government.

Amendment, repeal, and new legislation as the proper cure for bad laws (a point in the discussion of the Initiative and Referendum).

A Chamber of Commerce as an advisory board and bureau of commercial information for the benefit of Congress (a point in the discussion of matters relative to the Departments of Commerce and Labor, the Consular Service, etc.).

Advantages of a dictatorship during war (a point in the discussion of the Suspension of Habeas Corpus Act, and similar issues of Lincoln's administration).

Complete control of the purse by the Legislature.

Executive departments to be directed by a Council of State.

All laws to carry power of enforcing them (Supremacy of Federal Legislation over State).

Coercion of a State by the Federal Government for the national welfare (a point in the discussion of Secession).

The strictly constitutional propositions of Webster may be inferred from a comparison which he instituted between them and the Constitution which was adopted. This he published in 1791 in his complete works. For the full text of the "Dissertation" see Appendix XI in

executive authority should be amenable both to them and to the legislative power, and removable for just cause by either of them. This is qualified by the convention.

And inasmuch as my sentiments in these respects were either qualified or totally neglected by the convention, I suppose they were wrong. However, the whole matter is submitted to the politicians of the present age and to our posterity in future.

In sundry other things the convention have gone into minutes, *e. g.*, respecting elections of presidents, senators and representatives in Congress, etc., which I proposed to leave at large to the wisdom and discretion of Congress and of the several States.

Great reasons may doubtless be assigned for their decision, and perhaps some little ones for mine. Time, the great arbiter of all human plans, may, after a while, give his decision; but neither the convention nor myself will probably live to feel either the exultation or mortification of his approbation or disapprobation of either of our plans.

But if any of these questions should in future time become objects of discussion, neither the vast dignity of the convention, nor the low, unnoticed state of myself, will be at all considered in the debates; the merits of the matter and the interests connected with or rising out of it will alone dictate the decision.

THE CALL FOR A CONVENTION

In 1780, one year before Webster's first proposal of an entirely new Constitution, Alexander Hamilton, then twenty-three years of age, proposed in a letter to James Duane a convention of all the States to revise the Articles of Confederation. In 1782 the legislature of his State, New York, recommended such a convention, and, in 1784, Gen. Washington, in a letter to the Governor of Virginia, urged that a radical change in the Federal Government was necessary. He said:

The disinclination of the individual States to yield competent powers to Congress for the Federal Government, their unreasonable jealousy of that body, and of one another, and the disposition which seems to pervade each, of being all-wise and all-powerful within itself, will, if there is not a change in the system, be our downfall as a nation. This is as clear to me as A, B, C, and I think we have opposed Great Britain, and

have arrived at the present state of peace and independency to very little purpose if we cannot conquer our own prejudices. The powers of Europe begin to see this, and our newly acquired friends, the British, are already acting upon this ground; and wisely, too, if we are determined in our folly. They know that individual opposition to their measures is futile, and boast that we are not sufficiently united as a nation to give a general one! Is not the indignity alone of this declaration, while we are in the act of peace-making and reconciliation, sufficient to stimulate us to vest more extensive and adequate powers in the sovereigns of these United States?

In 1785 the legislature of Massachusetts passed resolutions similar to those of New York. Congress, however, whose adoption of the acts of the convention would be necessary to put them into effect, failed to approve of these recommendations, and the proposals came to nothing.

The meeting of such a convention was destined to develop in a fashion less formal and more natural, and therefore all the more effective in showing the proper relations of the Federal Government to the States. The legislatures of Virginia and Maryland were forced by the demands of commerce to adopt inter-State rules for the navigation of the Potomac River and Chesapeake Bay, which formed the common boundary of the States. Washington was consulted in the matter, and probably by his suggestion the appointment of a joint commission for framing the regulations led to the call by the Virginia legislature in January, 1786, of a convention of all the States:

To take into consideration the *trade and commerce* of the United States; to consider how far an uniform system, in their commercial intercourse and regulations, might be necessary to their common interest and permanent harmony, and to report to the several States such an act relative to this great object, as when unanimously ratified by them, would enable the United States, in Congress assembled, effectually to provide for the same.

It was afterward agreed that this meeting should be held at Annapolis, Md., in September of the same year.

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General Washington replied, heartily endorsing Jay's views.

THE ANNAPOLIS CONVENTION

At the convention only the States of Virginia, Delaware, Pennsylvania, New Jersey, and New York were represented. Delegates were appointed by New Hampshire, Massachusetts, Rhode Island, and North Carolina, but did not attend. In consequence of such a partial representation of the States, the commissioners present thought it improper to proceed on the important business with which they were intrusted. They were now, more than ever, sensible of the necessity of a general convention of all the States, and were also satisfied that the powers of this convention should extend to other objects than merely the regulation of trade and commerce. They therefore drew up a report and address to the States, in which, after stating the defects of the Federal Government and that the situation of the United States "was delicate and critical, calling for an exertion of the virtue and wisdom of all the members of the Confederacy," they recommended to all the States to concur "in the appointment of commissioners, to meet at Philadelphia, on the second Monday in May, 1787, to take into consideration the situation of the United States, to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union." This address was sent to Congress as well as to the several States.

The Virginia legislature first appointed delegates, according to the recommendation of the meeting at Annapolis. Other States soon after followed the example of Virginia. In February, 1787, Congress indorsed the Convention, and this hastened the appointment of delegates from all the States except Rhode Island.

HAMILTON'S PLEA FOR A NATIONAL REVENUE

During this period the proposition to confer on Congress the power of levying imports as a means of ob-

LETTERS OF JAY TO WASHINGTON

In a letter to General Washington, written in February, John Jay observed:

Experience has pointed out errors in our National Government which call for correction, and which threaten to blast the fruit we expected from our tree of liberty. The convention proposed by Virginia may do some good, and would perhaps do more if it comprehended more objects. An opinion begins to prevail that a general convention for revising the Articles of Confederation would be expedient. Whether the people are yet ripe for such a measure, or whether the system proposed to be obtained by it is only to be expected from calamity and commotion, is difficult to ascertain.

In a second letter to General Washington, in June of the same year, Jay thus expressed his feelings and views:

Our affairs seem to lead to some crisis, some revolution, something that I cannot foresee or conjecture. I am uneasy and apprehensive, more so than during the war. Then we had a fixed object, and though the means and time of obtaining it were often problematical, yet I did firmly believe that justice was with us. The case is now altered. We are going and doing wrong, and therefore I look forward to evils and calamities, but without being able to guess at the instrument, nature, or measure of them. That we shall again recover, and things again go well, I have no doubt. Such a variety of circumstances would not, almost miraculously, have combined to liberate and make us a nation for transient and unimportant purposes. I therefore believe we are yet to become a great and respectable people, but *when* and *how* only the spirit of prophecy can discern.

What I most fear is that the better kind of people (by which I mean the people who are orderly and industrious, who are content with their situation, and not uneasy in their circumstances) will be led by the insecurity of property, the loss of confidence in their rulers, and the want of public faith and rectitude to consider the claims of liberty as imaginary and delusive. This state of uncertainty and fluctuation must disgust and alarm such men and prepare their minds for almost any change that may promise them quiet and security.

taining national revenue again came before the legislature of New York, and, though it was supported by the eloquence of Hamilton, was defeated by a majority of fifteen. Nevertheless the legislature agreed to send representatives to the Constitutional Convention in Philadelphia, and appointed Hamilton, with Robert Yates and John Lansing, Jr., as the delegates.

The following is an abridgment of Hamilton's speech before the legislature. It was delivered on February 18, 1787.

ON GRANTING TAXING POWER TO CONGRESS

ALEXANDER HAMILTON

In the interpretation of laws it is admitted to be a good rule to resort to the coexisting circumstances, and collect from thence the intention of the framers of the law. Let us apply this rule to the present case.

In the commencement of the Revolution, delegates were sent to meet in Congress with large discretionary powers. In short, generally speaking, with full power "to take care of the republic." In the whole of this transaction the idea of an union of the colonies was carefully held up. It pervaded all our public acts.

In the Declaration of Independence we find it continued and confirmed. . . . "These United Colonies, . . . as free and independent States, have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things that independent States may of right do."

Hence we see that the union and independence of these States are blended and incorporated in one and the same act, which, taken together, clearly imports that the United States had in their origin full power to do all acts and things which independent States may of right do, or, in other words, full power of sovereignty.

Accordingly we find that, upon the authority of that act only approved by the several States, they did levy war, contract alliances, and exercise other high powers of sovereignty, even to the appointment of a dictator, prior to the present confederation.

In this situation and with this plenitude of power, our Constitution knows and acknowledges the United States in

Congress assembled, and provides for the annual appointment of delegates to represent this State in that body, which, in substance, amounts to a constitutional recognition of the union with complete sovereignty.

A government may exist without any formal organization or precise definition of its powers. However improper it might have been that the Federal Government should have continued to exist with such absolute and undefined authority, this does not militate against the position that it did possess such authority. It only proves the propriety of a more regular formation to ascertain its limits. This was the object of the present confederation, which is in fact an abridgment of the original sovereignty of the union.

It may be said (for it has been said upon other occasions) that though the Constitution did consider the United States in the light I have described, and left the legislature at liberty in the first instance to have organized the Federal Government in such a manner as they thought proper, yet that liberty ceased with the establishment of the present confederacy. The discretion of the legislature was then determined.

This, upon the face of it, is a subtility uncountenanced by a single principle of government or a single expression of the Constitution. It is saying that a general authority given to the legislature for the permanent preservation and good of the community has been exhausted and spent by the exercise of a part of that authority. The position is the more destitute of color because the confederation, by the express terms of the compact, preserves and continues this power. The last clause of it authorizes Congress to propose, and the States to agree to, such alterations as might be afterwards found necessary or expedient.

We see, therefore, that the Constitution knows and acknowledges the United States in Congress; that it provides for the annual appointment of delegates to represent this State in that body without prescribing the objects or limits of that representation; that at the time our Constitution was framed the Union existed with full sovereignty, and that therefore the idea of sovereignty in the Union is not incompatible with it. We see further that the doctrine contained in the objection against granting legislative power would equally operate against granting executive power, would prove that the powers already vested in the Union are illegal and unconstitutional, would render a confederacy of the States in any form impracticable, and would defeat all those provisions of our own

Constitution which relate to the United States. I submit it to the committee, whether a doctrine pregnant with such consequences can be true; whether it is not as opposite to our Constitution as to the principles of national safety and prosperity, and whether it would not be lamentable if the zeal of opposition to a particular measure should carry us to the extreme of imposing upon the Constitution a sense foreign to it, which must embarrass the national councils upon future occasions when all might agree in the utility and necessity of a different construction.

I return to the examination of the question: How far the power proposed to be conferred upon Congress would be dangerous to the liberty of the people? And here I ask:

Whence can this danger arise? The members of Congress are annually chosen by the members of the several legislatures. They come together with different habits, prejudices and interests. They are in fact continually changing. How is it possible for a body so composed to be formidable to the liberties of States—several of which are largely empires in themselves?

In a contest of this kind the body of the people will always be on the side of the State governments. This will not only result from their love of liberty and regard to their own safety, but from other strong principles of human nature. The State governments operate upon those immediate familiar personal concerns to which the sensibility of individuals is awake. The distribution of private justice belonging to them, they must always appear to the senses of the people as the immediate guardians of their rights. They will, of course, have the strongest hold on their attachment, respect, and obedience.

What is to be feared from the efforts of Congress to establish a tyranny with the great body of the people, under the direction of their State governments, combined in opposition to their views?

The causes taken notice of as securing the attachment of the people to their local governments present us with another important truth—the natural imbecility of Federal governments, and the danger that they will never be able to exercise power enough to manage the general affairs of the Union, though the States will have a common interest, yet they will also have a particular interest. For example, as a part of the Union, it will be the interest of every State to pay as little itself, and to let its neighbors pay as much as possible. Particular interests have always more influence upon men than

general. The Federal States, therefore, consulting their immediate advantage, may be considered as so many eccentric powers tending in a contrary direction to the government of the Union, and, as they will generally carry the people along with them, the confederacy will be in continual danger of dissolution. This, Mr. Chairman, is the real rock upon which the happiness of this country is likely to split. This is the point to which our fears and cares should be directed—to guard against this, and not to terrify ourselves with imaginary dangers from the speaker of power in Congress, will be our true wisdom.

It is no objection to say that a great part of this fund will be dedicated to the use of the United States. Their exigencies must be supplied in some way or other. The more is done toward it by means of the import, the less will be to be done in other modes. If we do not employ that resource to the best account, we must find others in direct taxation. And to this are opposed all the habits and prejudices of the community. There is not a farmer in the State who would not pay a shilling in the voluntary consumption of articles on which a duty is paid rather than a penny imposed immediately on his house and land.

Having now shown, Mr. Chairman, that there is no constitutional impediment to the adoption of the bill, that there is no danger to be apprehended to the public liberty from giving the power in question to the United States; that in the view of revenue the measure under consideration is not only expedient, but necessary—let us turn our attention to the other side of this important subject. Let us ask ourselves what will be the consequence of rejecting the bill. What will be the situation of our national affairs if they are left much longer to float in the chaos in which they are now involved?

Can our national character be preserved without paying our debts? Can the Union subsist without revenue? Have we realized the consequences which would attend its dissolution?

If these States are not united under a Federal Government, they will infallibly have wars with each other, and their divisions will subject them to all the mischiefs of foreign influence and intrigue. The human passions will never want objects of hostility. The Western Territory is an obvious and fruitful source of contest.

Wars with each other would beget standing armies—a source of more real danger to our liberties than all the powers that could be conferred upon the representatives of the Union.

And wars with each other would lead to opposite alliances with foreign powers and plunge us into all the labyrinths of European politics.

The Romans, in their progress to universal dominion, when they conceived the project of subduing the refractory spirit of the Grecian republics, which composed the famous Achaian League, began by sowing dissensions among them and instilling jealousies of each other, and of the common head, and finished by making them a province of the Roman empire.

The application is easy: if there are any foreign enemies, if there are any domestic foes to this country, all their arts and artifices will be employed to effect a dissolution of the Union. This cannot be better done than by sowing jealousies of the Federal head, and cultivating in each State an undue attachment to its own power.

THE CONSTITUTIONAL CONVENTION

The convention met as appointed (in Philadelphia in May, 1787).

Rhode Island, which had positively refused to pay her quota of national expenses, was not represented in the convention, and the delegation from New Hampshire, for whom the State legislature had failed to provide expenses, did not appear until late in the proceedings, when this failure had been remedied.

The delegates, while recognizing the greatness of the task before them, were determined to do their utmost to accomplish it. Thus the delegates of North Carolina said in a report to the governor of their State:

A very large field presents to our view without a single straight or eligible road that has been trodden by the feet of nations. An union of sovereign States, preserving their civil liberties and connected together by such ties as to preserve permanent and effective governments is a system not described, it is a circumstance that has not occurred in the history of men; if we shall be so fortunate as to find this in descript our time will have been well spent. Several members of the convention have their wives here and other gentlemen have sent for theirs. This seems to promise a summer's campaign. Such of us as can remain here from the inevitable avocation of private business are resolved to continue whilst there is any prospect of being able to serve the State and Union.

George Washington was unanimously elected as the chairman of the convention. Deputies from seven States were accounted a quorum, and a majority of fully represented States was to decide questions. The proceedings were to be secret (except where special leave was granted to the contrary) in order, as James Madison wrote to Thomas Jefferson in Paris on June 6, "to secure unbiased discussion within doors, and to prevent misconceptions and misconstructions without." In reference to this Jefferson wrote to John Adams on August 30:

I am sorry they began their deliberations by so abominable a precedent as that of tying up the tongues of their members. Nothing can justify this example but the innocence of their intentions and ignorance of the value of public discussions. I have no doubt that all their other measures will be good and wise. It is really an assembly of demigods.

This secrecy has been especially deplored by historians because the literal text of almost all the speeches made in the convention was lost, and many interesting incidents, referred to obscurely in the diaries and letters of the time, consigned to oblivion. James Madison, in his "Papers," left an admirable digest of the proceedings of the convention, to which the reader is referred (see Volume V of "Elliott's Debates").

The first question among the members of this assembly was whether they should amend the old government or form a new system. By the resolve of Congress, as well as the instructions of some of the States, they were met "for the sole and express purpose of revising the Articles of Confederation." Such, however, were the radical defects of the old government, that a majority determined to form an entire new one.

On the 29th of May, Edmund Randolph, of Virginia, submitted to the convention fifteen resolutions as the basis of a new constitution.

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12. Provision to be made for continuance of a Congress until the Union is completely formed.

13. Articles of Union to be subject to amendment without assent of the national legislature.

14. The legislative, executive, and judiciary powers of the separate States to be sworn to support the Articles of Union.

15. The amendments to the Articles of Confederation to be submitted to conventions chosen by the States to consider them and decide thereon.

MADISON'S LETTER TO RANDOLPH

In forming this plan, Governor Randolph had been aided by correspondence with James Madison. In a letter to Randolph on April 8, 1787, Madison wrote:

I think with you that it will be well to retain as much as possible of the old Confederation, though I doubt whether it may not be best to work the valuable articles into the new system, instead of engrafting the latter on the former. I am also perfectly of your opinion that in framing a system no material sacrifices ought to be made to local or temporary prejudices. . . . In truth my ideas of a reform strike so deeply at the old Confederation, and lead to such a systematic change, that they scarcely admit of the expedient.

I hold it for a fundamental point that an individual independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty. I think at the same time that consolidation of the States into one simple republic is not less unattainable than it would be inexpedient. Let it be tried, then, whether any middle ground can be taken, which will at once support a due supremacy of the national authority and leave in force the local authorities so far as they can be subordinately useful.

The first step to be taken is, I think, a change in the principle of representation. According to the present form of the Union an equality of suffrage, if not just toward the larger members of it, is at least safe to them, as the liberty they exercise of rejecting or executing the acts of Congress is uncontrollable by the nominal sovereignty of Congress. Under a system which would operate without the intervention of the States, the case would be materially altered. A vote from Delaware would have the same effect as one from Massachusetts or Virginia.

RANDOLPH'S PLAN

The points of this plan were:

1. Correction and enlargement of the Articles of Confederation better to promote common defence, security of liberty, and general welfare.

2. Suffrage in Congress to be proportioned to quotas of contribution or number of free inhabitants.

3. Congress to consist of two branches.

4. Congressmen to be elected at stated times by the people; to be above a fixed age; to be paid; to be ineligible for other offices during time of service, and for a fixed time thereafter; to be incapable of reelection until after a fixed time; and to be subject to recall.

5. Second branch to be elected by first, from nominees by the State legislatures; to be above a fixed age; to hold office for a sufficient time to insure their independency; to be paid; to be ineligible for other offices during time of service, and for a fixed time thereafter.

6. Each branch to originate acts; Congress to possess its present powers, and in addition to legislate in all cases where the separate States are incompetent, or where the harmony of the United States may be interrupted by individual State legislation; Congress to negative such interrupting acts of the States, and to employ the force of the Union against any State failing to fulfill its duty under the Constitution.

7. A national executive to be instituted, chosen by Congress, for a fixed term, paid by a fixed sum which is not to be changed during the term, and ineligible for reelection.

8. The executive and a convenient number of the national judiciary to compose a council of revision of legislative acts before their promulgation, their veto, however, to be overridden by a fixed proportion of the members of each legislative branch.

9. A national judiciary to be established to hold office during good behavior, to be paid on conditions prevailing with the executive; its lower tribunals to pass with final force on international and Federal questions.

10. New States to be formed from the territory within the limits of the United States by a fixed proportion of the votes of the States (not necessarily unanimous).

11. A republican form of government to be guaranteed to each State, except in case of voluntary junction of government and territory.

Let the National Government be armed with a positive and complete authority in all cases where uniform measures are necessary, as in trade, etc., etc. Let it also retain the powers which it now possesses.

Let it have a negative in all cases whatsoever on the legislative acts of the States, as the King of Great Britain heretofore had. This I conceive to be essential and the least possible abridgment of the State sovereignties. Without such a defensive power, every positive power that can be given on paper will be unavailing. It will also give internal stability to the States. There has been no moment since the peace at which the Federal assent would have been given to paper money—etc., etc.

Let this national supremacy be extended also to the Judiciary Department. If the judges in the last resort depend on the States, and are bound by their oaths to them, and not to the Union, the intention of the law and the interests of the nation may be defeated by the obsequiousness of the tribunals to the policy or prejudices of the States. It seems at least essential that an appeal should lie to some national tribunals in all cases which concern foreigners or inhabitants of other States. The admiralty jurisdiction may be fully submitted to the National Government.

A government formed of such extensive powers ought to be well organized. The legislative department may be divided into two branches. One of them to be chosen every — years by the legislatures or the people at large; the other to consist of a more select number, holding their appointments for a longer term, and going out in rotation. Perhaps the negative on the State laws may be most conveniently lodged in this branch. A council of revision may be superadded, including the great ministerial officers.

A national executive will also be necessary. I have scarcely ventured to form my opinion yet, either of the manner in which it ought to be constituted, or of the authorities with which it ought to be clothed.

An article ought to be inserted expressly guaranteeing the tranquility of the States against internal as well as external dangers.

To give the new system its proper energy, it will be desirable to have it ratified by the authority of the people, and not merely by that of the legislatures.

I am afraid you will think this project, if not extravagant, absolutely unattainable and unworthy of being attempted. Conceiving it myself to go no further than is essential, the

objections drawn from this source are to be laid aside. I flatter myself, however, that they may be less formidable on trial than in contemplation. The change in the principle of representation will be relinquished by a majority of the States, and those too of most influence. The Northern States will be reconciled to it by the *actual* superiority of their populousness; the Southern by their *expected* superiority on this point. This principle established, the repugnance of the large States to part with power will in a great degree subside, and the smaller States must ultimately yield to the predominant will. It is also already seen by many, and must by degrees be seen by all, that, unless the Union be organized efficiently on republican principles, innovation of a much more objectionable form may be obtruded; or, in the most favorable event, the partition of the Empire into rival and hostile confederacies will ensue.

One week later, April 16, 1787, Madison amplified his ideas in a letter to Washington. Hannis Taylor, in his "Origin and Growth of the American Constitution," contends that Madison had drafted the plan, but for policy's sake, since he had political opponents in his State, persuaded Governor Randolph, the head of Virginia, as well as of the Virginia delegation to the convention, to father it. Taylor draws this conclusion from his letters to Randolph and Washington, as well as from the circumstances that Madison had been engaged for a year previously in preparing himself for the Constitutional Convention, and that Randolph said, in his speech supporting the plan, not that he had *written* it, but *proposed* it at the instigation of his colleagues, and also from the fact that the plan is spread upon the journal of the Congress in Madison's hand.

Taylor also infers from the presence in Philadelphia of Madison at the time when Pelatiah Webster published his "Dissertation on the Constitution" that he got his essential ideas from this pamphlet.

On the same day on which the Randolph resolutions were presented, Charles Pinckney of South Carolina laid before the convention his draft of a proposed Federal Government.

Article VI. The Legislature of the United States shall have the power to lay and to collect taxes, duties, imposts, and excises;

To regulate commerce with all nations, and among the several States;

To borrow money and emit bills of credit;

To establish postoffices;

To raise armies;

To build and equip fleets;

To pass laws for arming, organizing, and disciplining the militia of the United States;

To subdue a rebellion in any State on application of its legislature;

To coin money and regulate the value of all coins, and to fix the standard of weights and measures;

To provide such dockyards and arsenals and erect such fortifications as may be necessary for the United States, and to exercise exclusive jurisdiction therein;

To appoint a Treasurer, by ballot;

To constitute tribunals inferior to the Supreme Court;

To establish post and military roads;

To establish and provide for a national university at the seat of government of the United States;

To establish uniform rules of naturalization;

To provide for the establishment of a seat of government for the United States not exceeding ——— miles square, in which they shall have exclusive jurisdiction;

To make rules concerning captures from an enemy;

To declare the law and punishment of piracies and felonies at sea, and of counterfeiting coin, and of all offences against the laws of nations;

To call forth the aid of the militia to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions;

And to make all laws for carrying the foregoing powers into execution.

The legislature of the United States shall have the power to declare the punishment of treason, which shall consist only in levying war against the United States, or any of them, or in adhering to their enemies. No person shall be convicted of treason but by the testimony of two witnesses.

The proportion of direct taxation shall be regulated by the whole number of inhabitants of every description, which number shall, within ——— years after the first meeting of the

THE PINCKNEY PLAN

The articles proposed were as follows. The substances of Articles II to V is given, and the text of the others.

Article I. The style of this government shall be: "The United States of America," and the government shall consist of supreme legislative, executive, and judicial powers.

Article II. There shall be two chambers of legislation, the House of Delegates and the Senate; these shall meet annually at a fixed time.

Article III. Delegates to be chosen by the people of the States; each to be a resident of the State he is chosen for; number of delegates from each State to be proportioned on population. All money bills to originate in House of Delegates, and not be altered by the Senate. House of Delegates to possess exclusive power of impeachment, and to choose its own officers; any vacancy in its membership to be supplied by the executive of the State represented.

Article IV. House of Delegates to elect Senators, a fixed number in each case from those citizens of each State who are above a fixed age. The Senators from New England to form class one, from the Middle States (New York to Delaware inclusive) class two, and from the Southern States (Maryland to Georgia inclusive) class three; terms of service of each class to be a fixed period, differing in duration from the other periods, and determined by lot. House of Delegates to supply vacancies. Senate to choose its own officers.

Article V. House of Delegates to be judges of the elections and qualifications of its members. Majority in each house to be a quorum. Freedom of debate; no speaker to be impeached for his words by an outside authority; members to be free of arrest while in attendance, except for treason, felony, or breach of the peace. Both houses to keep journals, and publish them, except on secret occasions. Yeas and Nays to be entered on them at request of a member. No adjournments to another place, or for more than a fixed time, to take place without consent of the other House. Members of each House not to hold other offices during service, and Senators not for one year after service. Members to be paid by the States which they represent. Bills to be approved by the President, or passed by a two-thirds majority over his veto or his failure to sign after a fixed number of days while Congress is in session.

legislature, and within the term of every ——— year after, be taken in the manner to be prescribed by the legislature.

No tax shall be laid on articles exported from the States; nor capitation tax, but in proportion to the census before directed.

All laws regulating commerce shall require the assent of two-thirds of the members present in each house. The United States shall not grant any title of nobility. The legislature of the United States shall pass no law on the subject of religion, nor touching or abridging the liberty of the press, nor shall the privilege of the writ of habeas corpus ever be suspended, except in case of rebellion or invasion.

All acts made by the legislature of the United States, pursuant to this Constitution, and all treaties made under the authority of the United States, shall be the supreme law of the land, and all judges shall be bound to consider them as such in their decisions.

Article VII. The Senate shall have the sole and exclusive power to declare war, and to make treaties, and to appoint ambassadors and other ministers to foreign nations, and judges of the Supreme Court.

They shall have the exclusive power to regulate the manner of deciding all disputes and controversies now existing, or which may arise between the States respecting jurisdiction or territory.

Article VIII. The executive power of the United States shall be vested in a President of the United States of America, which shall be his style; and his title shall be His Excellency. He shall be elected for ——— years, and shall be reëligible. He shall from time to time give information to the legislature of the state of the Union and recommend to their consideration the measures he may think necessary. He shall take care that the laws of the United States be duly executed. He shall commission all the officers of the United States; and, except as to ambassadors, other ministers, and judges of the Supreme Court, he shall nominate, and, with the consent of the Senate, appoint, all other officers of the United States. He shall receive public ministers from foreign nations, and may correspond with the executives of the different States. He shall have power to grant pardons and reprieves, except in impeachments. He shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States; and shall receive a compensation which shall not be increased or diminished during his continuance in office. At entering on

the duties of his office, he shall take an oath faithfully to execute the duties of a President of the United States. He shall be removed from his office on impeachment by the House of Delegates, and conviction in the Supreme Court of treason, bribery, or corruption. In case of his removal, death, resignation, or disability, the President of the Senate shall exercise the duties of his office until another President be chosen. And in case of the death of the President of the Senate, the Speaker of the House of Delegates shall do so.

Article IX. The legislature of the United States shall have the power, and it shall be their duty, to establish such courts of law, equity, and admiralty as shall be necessary.

The judges of the courts shall hold their offices during good behavior, and receive a compensation which shall not be increased or diminished during their continuance in office. One of these courts shall be termed the Supreme Court, whose jurisdiction shall extend to all cases arising under the laws of the United States, or affecting ambassadors, other public ministers and consuls, to the trial of impeachment of officers of the United States, to all cases of admiralty and maritime jurisdiction. In cases of impeachment affecting ambassadors and other public ministers this jurisdiction shall be original, and in all other cases appellate.

All criminal offences, except in cases of impeachment, shall be tried in the State where they shall be committed. The trials shall be open and public, and shall be by jury.

Article X. Immediately after the first census of the people of the United States, the House of Delegates shall apportion the Senate by electing for each State, out of the citizens resident therein, one Senator for every ——— members each State shall have in the House of Delegates. Each State shall be entitled to have at least one member in the Senate.

Article XI. No State shall grant letters of marque and reprisal, or enter into a treaty, or alliance, or confederation; nor grant any title of nobility; nor, without the consent of the legislature of the United States, lay any impost on imports; nor keep troops or ships of war in time of peace; nor enter into compacts with other States or foreign powers; nor emit bills of credit; nor make anything but gold, silver, or copper a tender in payment of debts; nor engage in war except for self-defence when actually invaded, or the danger of invasion be so great as not to admit of a delay until the Government of the United States can be informed thereof. And, to render these prohibitions effectual, the legislature of the United

reported to the convention nineteen resolutions founded on those proposed by Randolph.

RESOLUTIONS OF THE COMMITTEE OF THE WHOLE

1. *Resolved*, That it is the opinion of this committee that a national government ought to be established, consisting of a supreme legislative, judiciary, and executive.

2. *Resolved*, That the national legislature ought to consist of two branches.

3. *Resolved*, That the members of the first branch of the national legislature ought to be elected by the people of the several States for the term of three years, to receive fixed stipends, by which they may be compensated for the devotion of their time to public service to be paid out of the national treasury; to be ineligible to any office established by a particular State, or under the authority of the United States (except those peculiarly belonging to the functions of the first branch) during the term of service, and under the national government, for the space of one year after its expiration.

4. *Resolved*, That the members of the second branch of the national legislature ought to be chosen by the individual legislatures; to be of the age of thirty years at least; to hold their offices for a term sufficient to insure their independency—namely, seven years; to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office established by a particular State, or under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term of service, and under the national government, for the space of one year after its expiration.

5. *Resolved*, That each branch ought to possess the right of originating acts.

6. *Resolved*, That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation; and, moreover, to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening, in the opinion of the national legislature, the Articles of Union, or any treaties subsisting under the authority of the Union.

7. *Resolved*, That the right of suffrage in the first branch

States shall have the power to revise the laws of the several States that may be supposed to infringe the powers exclusively delegated by this Constitution to Congress, and to negative and annul such as do.

Article XVII. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. Any person charged with crimes in any State, fleeing from justice to another, shall, on demand of the executive of the State from which he fled, be delivered up, and removed to the State having jurisdiction of the offence.

Article XIII. Full faith shall be given in each State to the acts of the legislature, and to the records and judicial proceedings of the courts and magistrates of every State.

Article XIV. The Legislature shall have power to admit new States into the Union on the same terms with the original States, provided two-thirds of the members present in both Houses agree.

Article XV. On the application of the legislature of a State, the United States shall protect it against domestic insurrection.

Article XVI. If two-thirds of the legislatures of the States apply for the same, the legislature of the United States shall call a convention for the purpose of amending the Constitution, or, should Congress, with the consent of two-thirds of each House, propose to the States amendments to the same, agreement of two-thirds of the legislatures of the States shall be sufficient to make the said amendments parts of the Constitution.

The ratification of the ——— conventions of ——— States shall be sufficient for organizing this Constitution.

Some time before October 14, 1787, Mr. Pinckney published a pamphlet containing his "Observations on the Plan of Government Submitted to the Federal Convention Delivered at Different Times in the Course of Their Discussions." The text of this is found in Professor Farrand's "Records of the Federal Convention," Vol. III, page 106.

The plans of Randolph and Pinckney were referred to a committee of the whole, which debated the resolutions from day to day until June 13, when the committee

of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation, namely, in proportion to the whole number of white and other free citizens, and inhabitants of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State.

8. *Resolved*, That the rights of suffrage in the second branch of the national legislature ought to be according to the rule established for the first.

9. *Resolved*, That a national executive be instituted, to consist of a single person; to be chosen by the national legislature, for the term of seven years; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be ineligible a second time; and to be removable on impeachment and conviction of malpractice, or neglect of duty; to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service, to be paid out of the national treasury.

10. *Resolved*, That the national executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by two-third parts of each branch of the national legislature.

11. *Resolved*, That a national judiciary be established, to consist of one supreme tribunal; the judges of which to be appointed by the second branch of the national legislature; to hold their offices during good behavior; to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12. *Resolved*, That the national legislature be empowered to appoint inferior tribunals.

13. *Resolved*, That the jurisdiction of the national judiciary shall extend to cases which respect the collection of the national revenue, impeachment of any national officers, and questions which involve the national peace and harmony.

14. *Resolved*, That provision ought to be made for the admission of States, lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

15. *Resolved*, That provision ought to be made for the

continuance of Congress and their authorities until a given day after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

16. *Resolved*, That a republican constitution, and its existing laws, ought to be guaranteed to each State by the United States.

17. *Resolved*, That provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary.

18. *Resolved*, That the legislative, executive, and judiciary powers within the several States ought to be bound by oath to support the Articles of Union.

19. *Resolved*, That the amendments which shall be offered to the Confederation by the convention ought, at a proper time or times after the approbation of Congress, to be submitted to an assembly, or assemblies of representatives, recommended by the several legislatures to be expressly chosen by the people to consider and decide thereon.

On the 15th of June William Paterson of New Jersey presented a plan of the Constitution.

PATERSON'S PLAN

This plan was a revision of the Articles of Confederation, giving Congress power to impose customs duties, stamps on paper, and postage for Federal revenue; to regulate foreign and interstate commerce, fines, etc., to be adjudicated by the judiciaries of the State where offences were committed, with appeal to the Federal judiciary, and to make requisitions of funds upon the States in proportion to the number of free citizens in each when a fixed proportion of States should authorize the requisitions.

A Federal executive of a fixed number of persons was to be appointed by Congress to serve for a fixed term; to be paid a fixed sum out of the Federal treasury with no change in the same during service; to be ineligible to hold other offices during service, and for a fixed time thereafter, and to be impeachable by a majority of State executives—which Federal executive was empowered to execute Federal acts, appoint Federal officers not otherwise chosen, and direct military operations, though not in person.

A Federal judiciary was to be appointed by Congress to hold office during good behavior; to be paid under the conditions of the executive salaries; to adjudicate impeachments of

CHAPTER XI

PEOPLE OR STATES?

[DEBATE IN THE CONSTITUTIONAL CONVENTION ON THE BASIS OF REPRESENTATION]

Debate on the "Jersey Plan" of Equal Representation of States in Congress: in favor, John Lansing, Jr. [N. Y.], William Paterson [N. J.], Judge Oliver Ellsworth [Ct.]; opposed, James Wilson [Pa.], Gen. Charles Cotesworth Pinckney [S. C.], Gov. Edmund Randolph [Va.], Alexander Hamilton [N. Y.], James Madison [Va.]; the Plan Is Rejected.

THE great issue of the Convention was now fairly before it. The Virginia plan, presented by the committee of the whole, was not a mere revision of the Articles of the Confederation, but an entirely new national system, a government in which the people of the entire Union were proportionately represented, and which possessed supremacy in national affairs over the governments of the several States. The Jersey plan (as it was afterward called), presented by Mr. Paterson, was little more than a revision of the Articles of Confederation, enlarging the powers of Congress, it is true, but keeping it still in subordination to the State governments as far as was possible with this enlargement, and continuing the feature of equal representation of the States. Representatives of the more populous States were naturally in favor of the Virginia plan, and those from the less populous States of the Jersey plan.

Alexander Hamilton was not in accord with either plan, and suggested that both be committed to the committee of the whole, in order that a comparative estimate might be had of the two. Thereupon it was agreed that the convention resolve itself into a committee of

Federal officers, and finally decide on all cases concerned with foreign affairs and Federal revenue.

State legislatures, executives, and judiciaries were to swear to support the Articles of Union.

Federal acts, above authorized, to be supreme over State acts on the subjects, and the Federal Government to be empowered to call on as many as necessary of the State governments to enforce them.

Provisions to be made for admission of new States and for adjudicating territorial disputes between the States.

Uniform rules of naturalization to be adopted by the States.

A citizen of one State committing an offence in another to be punished according to the law of his own State.

the whole to discuss both propositions on the following day.

On the morrow (June 16) began the great debate in the convention between the large and the small States (in respect to population) over the two plans.

From this point on the account of the debates is taken from the minutes made privately by Judge Robert Yates, delegate from New York. In all the votes taken during the proceedings reported by him only eleven States were represented [see page 284].

The leading speakers in this debate were: John Lansing, Jr. [N. Y.], William Paterson [N. J.], James Wilson [Pa.], Charles Cotesworth Pinckney [S. C.], Oliver Ellsworth [Conn.], Edmund Randolph [Va.], Alexander Hamilton [N. Y.], and James Madison [Va.].

NATION OR FEDERATION?

CONSTITUTIONAL CONVENTION, JUNE 16-19, 1787

MR. LANSING observed that both plans were fairly contrasted—the one federal and the other national. In the first (the Jersey plan) the powers are exercised as flowing from the respective State governments, the second deriving its authority from the people of the respective States, which latter must ultimately destroy or annihilate the State governments. To determine the powers on these grand objects with which we are invested, he said, let us recur to the credentials of the respective States and see what the views were of those who sent us. The language is there expressive—it is upon the revision of the present Confederation—to alter and amend such parts as may appear defective, so as to give additional strength to the Union. And he would venture to assert that, had the legislature of the State of New York apprehended that their powers would have been construed to extend to the formation of a national government, to the extinguishment of their independence, no delegates would have here appeared on the part of that State. This sentiment must have had its weight on a former occasion, even in this house, for when the second resolution of Virginia declared, in substance, that a federal government could not be amended for the good of the whole, the remark of an honorable member of South Carolina (Pinckney) that, by determining this question in the affirma-

tive, their deliberative powers were at an end induced this house to waive the resolution.

It is in vain to adopt a mode of government which we have reason to believe the people gave us no power to recommend, as they will consider themselves, on this ground, authorized to reject it. See the danger of exceeding your powers by the example which the requisition of Congress of 1783 afforded. They required an impost on all imported articles, to which, on federal grounds, they had no right unless voluntarily granted. What was the consequence? Some who had least to give granted it, and others, under various restrictions and modifications, so that it could not be symmetized. If we form a government, let us do it on principles which are likely to meet the approbation of the States. Great changes can only be gradually introduced. The States will never sacrifice their essential rights to a national government. New plans annihilating the rights of the States (unless upon evident necessity) can never be approved. I may venture to assert that the prevalent opinion of America is that granting additional powers to Congress would answer their views, and every power recommended for their approbation exceeding this idea will be fruitless.

MR. PATERSON.—As I had the honor of proposing a new system of government for the Union [see page 297], it will be expected that I should explain its principles.

First. The plan accords with our own powers.

Second. It accords with the sentiments of the people.

But if the subsisting Confederation is so radically defective as not to admit of amendment, let us say so and report its insufficiency and wait for enlarged powers. We must, in the present case, pursue our powers if we expect the approbation of the people. I am not here to pursue my own sentiments of government, but of those who have sent me, and I believe that a little practical virtue is to be preferred to the finest theoretical principles which cannot be carried into effect. Can we, as representatives of independent States, annihilate the essential powers of independency? Are not the votes of this convention taken, on every question, under the idea of independency? Let us turn to the fifth article of Confederation. In this it is mutually agreed that each State should have one vote; it is a fundamental principle, arising from confederated governments. The thirteenth article provides for amendments, but they must be agreed to by every State; the dissent of one renders every proposal null. The Confederation is in the

nature of a compact, and can any State, unless by the consent of the whole, either in politics or law, withdraw their powers? Let it be said by Pennsylvania, and the other large States, that they, for the sake of peace, assented to the Confederation; can she now resume her original right without the consent of the donee?

And although it is now asserted that the larger States reluctantly agreed to that part of the Confederation which secures an equal suffrage to each, yet let it be remembered that the smaller States were the last who approved the Confederation.

On this ground representation must be drawn from the States to maintain their independency, and not from the people composing those States.

The doctrine advanced by a learned gentleman from Pennsylvania that all power is derived from the people, and that in proportion to their numbers they ought to participate equally in the benefits and rights of government, is right in principle, but, unfortunately for him, wrong in the application to the question now in debate.

When independent societies confederate for mutual defence, they do so in their collective capacity, and then each State, for those purposes, must be considered as *one* of the contracting parties. Destroy this balance of equality, and you endanger the rights of the *lesser* societies by the danger of usurpation in the greater.

Let us test the government intended to be made by the Virginia plan on these principles. The representatives in the national legislature are to be in proportion to the number of inhabitants in each State. So far, it is right upon these principles of equality, when State distinctions are done away, but those to certain purposes still exist. Will the government of Pennsylvania admit a participation of their common stock of land to the citizens of New Jersey? I fancy not. It therefore follows that a national government upon the present plan is unjust and destructive of the common principles of reciprocity. Much has been said that this government is to operate on persons, not on States. This, upon examination, will be found equally fallacious, for the fact is it will, in the quotas of revenue, be proportioned among the States, as States, and in this business Georgia will have one vote and Virginia sixteen. The truth is, both plans may be considered to compel individuals to a compliance with their requisitions, although the requisition is made on the States.

Much has been said in commendation of two branches in a legislature, and of the advantages resulting from their being checks to each other. This may be true when applied to the State governments, but will not equally apply to a national legislature, whose legislative objects are few and simple.

Whatever may be said of Congress, or their conduct on particular occasions, the people in general are pleased with such a body, and in general wish an increase of their powers for the good government of the Union. Let us now see the plan of the national government on the score of expense. The least the second branch of the legislature can consist of is ninety members; the first branch of at least 270. How are they to be paid in our present impoverished situation? Let us therefore fairly try whether the Confederation cannot be mended, and, if it can, we shall do our duty, and I believe the people will be satisfied.

MR. WILSON first stated the difference between the two plans.

Virginia plan proposes two branches in the legislature.

Jersey, a single legislative body.

Virginia, the legislative powers derived from the people.

Jersey, from the States.

Virginia, a single executive.

Jersey, more than one.

Virginia, a majority of the legislature can act.

Jersey, a small majority can control.

Virginia, the legislature can legislate on all national concerns.

Jersey, only on limited objects.

Virginia, legislature to negative all State laws.

Jersey, giving power to the executive to compel obedience by force.

Virginia, to remove the executive by impeachment.

Jersey, on application of a majority of the States.

Virginia, for the establishment of inferior judiciary tribunals.

Jersey, no provision.

It is said, and insisted on, that the Jersey plan accords with our powers. As for myself, I consider my powers to extend to everything or nothing; and therefore that I have a right and am at liberty to agree to either plan or none. The people expect relief from their present embarrassed situation, and look up for it to this national convention, and it follows that they expect a national government; and therefore the plan from Virginia has the preference to the other. I would

with a reluctant hand add any powers to Congress, because they are not a body chosen by the people, and consist only of one branch, and each State in it has one vote. Inequality in representation poisons every government.

The English courts are hitherto pure, just, and incorrupt, while their legislature are base and venal. The one arises from unjust representation, the other from their independency of the legislature.

Lord Chesterfield remarks that one of the States of the United Netherlands withheld its assent to a proposition until a major of their State was provided for. He needed not have added (for the conclusion was self-evident) that it was one of the lesser States. I mean no reflection, but I leave it to gentlemen to consider whether this has not also been the case in Congress. The argument in favor of the Jersey plan goes too far, as it cannot be completed unless Rhode Island assents. A single legislature is very dangerous; despotism may present itself in various shapes. May there not be legislative despotism if, in the exercise of their power, they are unchecked or unrestrained by another branch? On the contrary an executive, to be restrained, must be an individual. The first triumvirate of Rome, combined, without law, was fatal to its liberties, and the second, by the usurpation of Augustus, ended in despotism. The two kings of Sparta, and the consuls of Rome, by sharing the executive, distracted their governments.

MR. C. C. PINCKNEY supposed that if New Jersey was indulged with one vote out of thirteen she would have no objection to a national government. He supposed that the convention have already determined virtually that the Federal Government cannot be made efficient. A national government being therefore the object, this plan must be pursued, as our business is not to conclude, but to recommend.

JUDGE ELLSWORTH was of opinion that the first question on the new plan will decide nothing materially on principle, and therefore moved the postponement thereof in order to bring on the second.

GOVERNOR RANDOLPH.—The question now is which of the two plans is to be preferred. If the vote on the first resolve will determine it, and it is so generally understood I have no objection that it be put. The resolutions from Virginia must have been adopted on the supposition that a federal government was impracticable. And it is said that power is wanting to institute such a government, but when our all is at stake I will consent to any mode that will preserve us. View our present deplorable situation. France, to whom we are indebted

in every motive of gratitude and honor, is left unpaid the large sums she has supplied us with in the day of our necessity. Our officers and soldiers, who have successfully fought our battles, and the loaners of money to the public, look up to you for relief.

The bravery of our troops is degraded by the weakness of our government.

It has been contended that the 5th article of the Confederation cannot be repealed under the powers to new-modify the Confederation by the 13th article. This surely is false reasoning; since the whole of the Confederation, upon revision, is subject to *amendment and alteration*; besides, our business consists in recommending a system of government, not in making it. There are great reasons when persons with limited powers are justified in exceeding them, and a person would be contemptible not to risk it. Originally, our Confederation was founded on the weakness of each State to repel a foreign enemy; and we have found that the powers granted to Congress are insufficient. The body of Congress is ineffectual to carry the great objects of safety and protection into execution. What would their powers be over the commander of the military but for the virtue of the commander? As the State assemblies are constantly encroaching on the powers of Congress, the Jersey plan would rather encourage such encroachment than be a check to it; and, from the nature of the institution, Congress would never be governed by cabal and intrigue. They are, besides, too numerous for an executive; nor can any additional powers be sufficient to enable them to protect us against foreign invasion. Among other things, Congress was intended to be a body to preserve peace among the States; and, in the rebellion of Massachusetts, it was found they were not authorized to use the troops of the Confederation to quell it. Every one is impressed with the idea of a general regulation of trade and commerce. Can Congress do this, when, from the nature of their institution, they are so subject to cabal and intrigue? And would it not be dangerous to intrust such a body with the power, when they are dreaded on these grounds? I am certain that a national government must be established, and this is the only moment when it can be done; and let me conclude by observing that the best exercise of power is to exert it for the public good.

On June 18 Colonel Alexander Hamilton reopened the debate with a powerful speech of five hours' dura-

them. We can only propose and recommend;—the power of ratifying or rejecting is still in the States. But on this great question I am still greatly embarrassed. I have before observed my apprehension of the inefficacy of either plan, and I have great doubts whether a more energetic government can pervade this wide and extensive country. I shall now show that both plans are materially defective.

1. A good government ought to be constant, and ought to contain an active principle. 2. Utility and necessity. 3. An habitual sense of obligation. 4. Force. 5. Influence.

I hold it that different societies have all different views and interests to pursue, and always prefer local to general concerns. For example: the New York legislature made an external compliance lately to a requisition of Congress; but do they not, at the same time, counteract their compliance by gratifying the local objects of the State, so as to defeat their concession? And this will ever be the case. Men always love power, and States will prefer their particular concerns to the general welfare; and as the States become large and important, will they not be less attentive to the general government? What, in the process of time, will Virginia be? She contains now half a million inhabitants: in twenty-five years she will double the number. Feeling her own weight and importance, must she not become indifferent to the concerns of the Union? And where, in such a situation, will be found national attachment to the general government?

By *force* I mean the coercion of law and the coercion of arms. Will this remark apply to the power intended to be vested in the government to be instituted by their plan? A delinquent must be compelled to obedience by force of arms. How is this to be done? If you are unsuccessful a dissolution of your government must be the consequence; and, in that case, the individual legislatures will reassume their powers; nay, will not the interests of the States be thrown into the State governments?

By *influence*, I mean the regular weight and support it will receive from those who find it their interest to support a government intended to preserve the peace and happiness of the community on the whole. The State governments, by either plan, will exert the means to counteract it. They have their State judges and militia all combined to support their State interests; and these will be influenced to oppose a national government. Either plan is therefore precarious. The national government cannot long exist when opposed by such a

tion, in the course of which he presented a plan of government differing widely from both of those before the convention.

MR. HAMILTON.—To deliver my sentiments on so important a subject, when the first characters of the Union have gone before me, inspires me with the greatest diffidence, especially when my own ideas are so materially dissimilar to the plans now before the committee. My situation is disagreeable; but it would be criminal not to come forward on a question of such magnitude. I have well considered the subject, and am convinced that no amendment of the Confederation can answer the purpose of a good government so long as the State sovereignties do, in any shape, exist; and I have great doubts whether a national government on the Virginia plan can be made effectual. What is federal? An association of several independent states into one. How or in what manner this association is formed is not so clearly distinguishable. We find the Diet of Germany has, in some instances, the power of legislation on individuals. We find the United States of America have it in an extensive degree in the case of piracies.

Let us now review the powers with which we are invested. We are appointed for the sole and express purpose of revising the Confederation, and to alter or amend it, so as to render it effectual for the purposes of a good government. Those who suppose it to be federal lay great stress on the terms *sole* and *express*, as if these words intended a confinement to a federal government; when the manifest import is no more than that the institution of a good government must be the *sole* and *express* object of your deliberations. Nor can we suppose an annihilation of our powers by forming a national government, as many of the States have made, in their constitutions, no provision for any alteration; and thus much I can say for the State I have the honor to represent, that, when our credentials were under consideration in the Senate, some members were for inserting a restriction in the powers, to prevent an encroachment on the Constitution: it was answered by others, and thereupon the resolve carried on the credentials, that it might abridge the constitutional powers of the State, and that possibly, in the formation of a new union, it would be found necessary. This appears reasonable, and therefore leaves us at liberty to form such a national government as we think best adapted for the good of the whole. I have, therefore, no difficulty as to the extent of our powers, nor do I feel myself restrained in the exercise of my judgment under

weighty rival. The experience of ancient and modern confederacies evinces this point, and throws considerable light on the subject. The Amphictyonic council of Greece had a right to require of its members troops, money, and the force of the country. Were they obeyed in the exercise of those powers? Could they preserve the peace of the greater states and republics? or where were they obeyed? History shows that their decrees were disregarded, and that the stronger States, regardless of their power, gave law to the lesser.

Let us examine the federal institution of Germany. It was instituted upon the laudable principle of securing the independency of the several states of which it was composed, and to protect them against foreign invasion. Has it answered these good intentions? Do we not see that their councils are weak and distracted, and that it cannot prevent the wars and confusions which the respective electors carry on against each other? The Swiss cantons, or the Helvetic union, are equally inefficient.

Such are the lessons which the experience of others affords us, and from whence results the evident conclusion that all federal governments are weak and distracted. To avoid the evils deducible from these observations, we must establish a general and national government, completely sovereign, and annihilate the State distinctions and State operations; and unless we do this no good purpose can be answered. What does the Jersey plan propose? It surely has not this for its object. By this we grant the regulation of trade and a more effectual collection of the revenue and some partial duties. These, at five or ten per cent., would only perhaps amount to a fund to discharge the debt of the corporation.

Let us take a review of the variety of important objects which must necessarily engage the attention of a national government. You have to protect your rights against Canada on the north, Spain on the south, and your western frontier against the savages. You have to adopt necessary plans for the settlement of your frontiers, and to institute the mode in which settlements and good governments are to be made.

How is the expense of supporting and regulating these important matters to be defrayed? By requisition on the States, according to the Jersey plan? Will this do it? We have already found it ineffectual. Let one State prove delinquent and it will encourage others to follow the example and thus the whole will fail. And what is the standard to quota among the States their respective proportions? Can lands be the

standard? How would that apply between Russia and Holland? Compare Pennsylvania with North Carolina, or Connecticut with New York. Does not commerce or industry in the one or other make a great disparity between these different countries, and may not the comparative value of the States, from these circumstances, make an unequal disproportion when the data are numbers? I therefore conclude that either system would ultimately destroy the Confederation, or any other government which is established on such fallacious principles. Perhaps imposts—taxes on specific articles—would produce a more equal system of drawing a revenue.

Another objection against the Jersey plan is the unequal representation. Can the great States consent to this? If they did it would eventually work its own destruction. How are forces to be raised by the Jersey plan? By quotas? Will the States comply with the requisition? As much as they will with the taxes.

Examine the present Confederation and it is evident they can raise no troops nor equip vessels before war is actually declared. They cannot, therefore, take any preparatory measure before an enemy is at your door. How unwise and inadequate their powers! and this must ever be the case when you attempt to define powers: something will always be wanting. Congress, by being annually elected and subject to recall, will ever come with the prejudices of their States rather than the good of the Union. Add, therefore, additional powers to a body thus organized and you establish a *sovereignty* of the worst kind, consisting of a single body. Where are the checks? None. They must either prevail over the State governments, or the prevalence of the State governments must end in their dissolution. This is a conclusive objection to the Jersey plan.

Such are the insuperable objections to both plans: and what is to be done on this occasion? I confess I am at a loss. I foresee the difficulty, on a consolidated plan, of drawing a representation from so extensive a continent to one place. What can be the inducements for gentlemen to come six hundred miles to a national legislature? The expense would at least amount to a hundred thousand pounds. This, however, can be no conclusive objection, if it eventuates in an extinction of State governments. The burden of the latter would be saved and the expense, then, would not be great. State distinctions would be found unnecessary; and yet, I confess, to carry government to the extremities, the State governments, reduced to corporations, and with very limited powers, might

as to bring forward its first characters in its support. I am, therefore, for a general government, yet would wish to go the full length of republican principles.

Let one body of the legislature be constituted during good behavior or life.

Let one executive be appointed who dares execute his powers. It may be asked: Is this a republican system? It is strictly so, as long as they remain elective.

And let me observe that an executive is less dangerous to the liberties of the people when in office during life than for seven years.

It may be said this constitutes an elective monarchy. Pray what is a monarchy? May not the governors of the respective States be considered in that light? But by making the executive subject to impeachment the term *monarchy* cannot apply. These elective monarchs have produced tumults in Rome, and are equally dangerous to peace in Poland; but this cannot apply to the mode in which I propose the election. Let electors be appointed in each of the States to elect the legislature (*here Mr. H. produced his plan*) to consist of two branches and I would give them the unlimited power of passing *all laws* without exception. The Assembly to be elected for three years by the people, in districts; the Senate to be elected by electors to be chosen for that purpose by the people, and to remain in office during life. The executive to have the power of negating all laws; to make war or peace, with the advice of the Senate; to make treaties with their advice, but to have the sole direction of all military operations; and to send ambassadors, and appoint all military officers, and to pardon all offenders, treason excepted, unless by advice of the Senate. On his death or removal, the president of the Senate to officiate, with the same powers, until another is elected. Supreme judicial officers to be appointed by the executive and the Senate. The legislature to appoint courts in each State, so as to make the State governments unnecessary to it.

All State laws to be absolutely void which contravene the general laws. An officer to be appointed in each State to have a negative on all State laws. All the militia and the appointment of officers to be under the national government.

I confess that this plan, and that from Virginia, are very remote from the idea of the people. Perhaps the Jersey plan is nearest their expectation. But the people are gradually ripening in their opinions of government. They begin to be tired of an excess of democracy. And what, even, is the Virginia plan but *pork still, with a little change of the sauce?*

be necessary, and the expense of the national government become less burdensome.

Yet, I confess, I see great difficulty of drawing forth a good representation. What, for example, will be the inducements for gentlemen of fortune and abilities to leave their houses and business to attend annually and long? It cannot be the wages: for these, I presume, must be small. Will not the power, therefore, be thrown into the hands of the demagogue, or middling politician—who, for the sake of a small stipend, and the hopes of advancement, will offer himself as a candidate, and the real men of weight and influence, by remaining at home, add strength to the State governments? I am at a loss to know what must be done. I despair that a republican form of government can remove the difficulties. Whatever may be my opinion, I would hold it, however, unwise to change that form of government. I believe the British government forms the best model the world ever produced; and such has been its progress in the minds of the many that the truth gradually gains ground this government has for its object *public strength and individual security*. It is said with us to be unattainable. If it was once formed it would maintain itself. All communities divide themselves into the few and the many. The first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and, however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give, therefore, to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second; and, as they cannot receive any advantage by a change, they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontrollable disposition requires checks. The Senate of New York, although chosen for four years, we have found to be inefficient. Will, on the Virginia plan, a continuance of seven years do it? It is admitted that you cannot have a good executive upon a democratic plan. See the excellency of the British executive. He is placed above temptation—he can have no distinct interests from the public welfare. Nothing short of such an executive can be efficient. The weak side of a republican government is the danger of foreign influence. This is unavoidable, unless it is so constructed

HAMILTON'S PLAN

1. The supreme legislative power of the United States of America to be vested in two distinct bodies of men, the one to be called the Assembly, the other the Senate, who, together, shall form the legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

2. The Assembly to consist of persons elected by the people, to serve for three years.

3. The Senate to consist of persons elected to serve during good behavior; their election to be made by electors chosen for that purpose by the people. In order to this, the States to be divided into election districts. On the death, removal, or resignation of any Senator his place to be filled out of the district from which he came.

4. The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior. His election to be made by electors, chosen by electors, chosen by the people in the election districts aforesaid. His authorities and functions to be as follows:

To have a negative upon all laws about to be passed, and the execution of all laws passed; to have the entire direction of war, when authorized or begun; to have, with the advice and approbation of the Senate, the power of making all treaties; to have the sole appointment of the heads or chief officers of the departments of Finance, War, and Foreign Affairs; to have the nomination of all other officers (ambassadors of foreign nations included), subject to the approbation or rejection of the Senate; to have the power of pardoning all offences except treason, which he shall not pardon without the approbation of the Senate.

5. On the death, resignation, or removal of the governor, his authorities to be exercised by the president of the Senate, until a successor be appointed.

6. The Senate to have the sole power of declaring war; the power of advising and approving all treaties; the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of Finance, War, and Foreign Affairs.

7. The supreme judicial authority of the United States to be vested in judges, to hold their offices during good behavior, with adequate and permanent salaries. This court to have original jurisdiction in all causes of capture; and an appellate jurisdiction in all causes in which the revenues of the general government, or the citizens of foreign nations, are concerned.

8. The legislature of the United States to have power to institute courts in each State, for the determination of all matters of general concern.

9. The Governors, Senators, and all officers of the United States to be liable to impeachment for mal- and corrupt conduct; and, upon conviction, to be removed from office, and disqualified for holding any place of trust or profit. All impeachments to be tried by a court, to consist of the chief or senior judge of the superior court of law in each State; provided that such judge hold his place during good behavior and have a permanent salary.

10. All laws of the particular States, contrary to the Constitution or laws of the United States, to be utterly void. And the better to prevent such laws being passed, the governor or president of each State shall be appointed by the general government, and shall have a negative upon the laws about to be passed in the State of which he is governor or president.

11. No State to have any forces, land or naval, and the militia of all the States to be under the sole and exclusive direction of the United States, the officers of which to be appointed and commissioned by them.

Judge Yates remarked that "Hamilton was praised by everybody, but supported by none." His plan was not even referred to the "committee of detail" on July 26. Hamilton was severely censured throughout his career for his undemocratic propositions in the convention, and so, in 1803, he wrote a letter to Col. Timothy Pickering explaining and justifying them.

HAMILTON'S LETTER TO PICKERING

The highest toned propositions which I made in the convention were for a President, Senate, and judges during good behavior—a House of Representatives for three years. Though I would have enlarged the legislative power of the general Government, yet I never contemplated the abolition of the State governments; but, on the contrary, they were, in some particulars, constituent parts of my plan.

This plan was, in my conception, conformable with the strict theory of a government purely republican; the essential criteria of which are that the principal organs of the executive and leg-

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On June 19 Mr. Madison made the closing argument against the Jersey plan.

MR. MADISON.—Many persons scruple the powers of the convention. If this remark had any weight it is equally applicable to the adoption of either plan. The difference of drawing the powers in the one from the people and in the other from the States does not affect the powers. There are two States in the Union where the members of Congress are chosen by the people. A new government must be made. Our all is depending on it; and, if we have but a clause that the people will adopt, there is then a chance for our preservation. Although all the States have assented to the Confederation, an infraction of any one article by one of the States is a dissolution of the whole. This is the doctrine of the civil law on treaties.

Jersey pointedly refused complying with a requisition of Congress and was guilty of this infraction, although she afterward rescinded her non-complying resolve. What is the object of a confederation? It is twofold: first, to maintain the union; secondly, good government. Will the Jersey plan secure these points? No; it is still in the power of the confederated States to violate treaties. Has not Georgia, in direct violation of the Confederation, made war with the Indians, and concluded treaties? Have not Virginia and Maryland entered into a partial compact? Have not Pennsylvania and Jersey regulated the bounds of the Delaware? Has not the State of Massachusetts at this time a considerable body of troops in pay? Has not Congress been obliged to pass a conciliatory act in support of a decision of their federal court, between Connecticut and Pennsylvania, instead of having the power of carrying into effect the judgment of their own court? Nor does the Jersey plan provide for a ratification, by the respective States, of the powers intended to be vested. It is also defective in the establishment of the judiciary, granting only an appellate jurisdiction, without providing for a second trial; and, in case the executive of a State should pardon an offender, how will it affect the definite judgment on appeal? It is evident, if we do not radically depart from a federal plan, we shall share the fate of ancient and modern confederacies. The Amphictyonic council, like the American Congress, had the power of judging, in the last resort, in war and peace—to call out forces—send ambassadors. What was its fate or continuance? Philip of Macedon with little difficulty destroyed every appearance of it. The Athenian had nearly the same fate. The Helvetic confederacy is rather a league. In the German

islative departments be elected by the people and hold their offices by a *responsible* and temporary or *defeasible* tenure.

A vote was taken on the proposition respecting the executive. Five States were in favor of it, among these Virginia; and, though, from the manner of voting by delegations, individuals were not distinguished, it was morally certain, from the known situation of the Virginia members (six in number, two of them, Mason and Randolph, professing popular doctrines), that Madison must have concurred in the vote of Virginia. Thus, if I sinned against republicanism, Mr. Madison was not less guilty.

I may truly then say that I never proposed either a President or Senate for life; and that I neither recommended nor meditated the annihilation of the State governments.

And I may add that, in the course of the discussions in the convention, neither the propositions thrown out for debate, nor even those voted in the earlier stages of deliberation, were considered as evidences of a definitive opinion in the proposer or voter. It appeared to me to be in some sort understood that, with a view to free investigation, experimental propositions might be made, which were to be received merely as suggestions for consideration.

Accordingly, it is a fact that my final opinion was against an executive during good behavior, on account of the increased danger to the public tranquillity incident to the election of a magistrate of this degree of permanency. In the plan of a constitution which I drew up while the convention was sitting, and which I communicated to Mr. Madison about the close of it, perhaps a day or two after, the office of President has no greater duration than for three years.

This plan was predicted upon these bases: 1. That the political principles of the people of this country would endure nothing but republican governments. 2. That, in the actual situation of the country, it was in itself right and proper that the republican theory should have a fair and full trial. 3. That to such a trial it was essential that the government should be so constructed as to give it all the energy and stability reconcilable with the principles of that theory.

These were the genuine sentiments of my heart, and upon them I acted.

I sincerely hope that it may not hereafter be discovered that, through want of sufficient attention to the last idea, the experiment of republican government, even in this country, has not been as complete, as satisfactory, and as decisive as could be wished.

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confederacy the parts are too strong for the whole. The Dutch are in a most wretched situation—weak in all its parts, and only supported by surrounding contending powers.

The rights of individuals are infringed by many of the State laws—such as issuing paper money and instituting a mode to discharge debts differing from the form of the contract. Has the Jersey plan any checks to prevent the mischief? Does it in any instance secure internal tranquillity? Right and force, in a system like this, are synonymous terms. When force is employed to support the system, and men obtain military habits, is there no danger they may turn their arms against their employers? Will the Jersey plan prevent foreign influence? Did not Persia and Macedon distract the councils of Greece by acts of corruption? And are not Jersey and Holland at this day subject to the same distractions? Will not the plan be burdensome to the smaller States, if they have an equal representation? But how is military coercion to enforce government? True, a smaller State may be brought to obedience, or crushed; but what if one of the larger States should prove disobedient—are you sure you can, by force, effect a submission? Suppose we cannot agree on any plan; what will be the condition of the smaller States? Will Delaware and Jersey be safe against Pennsylvania, or Rhode Island against Massachusetts? And how will the smaller States be situated in case of partial confederacies? Will they not be obliged to make larger concessions to the greater States? The point of representation is the great point of difference, and which the greater States cannot give up; and, although there was an equalization of States, State distinctions would still exist. But this is totally impracticable; and what would be the effect of the Jersey plan if ten or twelve new States were added?

At the conclusion of Mr. Madison's remarks the Convention in committee of the whole reported the Jersey plan as inadmissible.

CHAPTER XII

STRONG OR WEAK GOVERNMENT?

[DEBATE IN THE CONSTITUTIONAL CONVENTION ON BASIS OF REPRESENTATION]

Debate on the Virginia Plan of Representation of States in Congress According to Population: in favor (in the main), James Wilson [Pa.], James Madison [Va.], Charles Pinckney [S. C.], Alexander Hamilton [N. Y.], Hugh Williamson [N. C.], Elbridge Gerry [Mass.], Rufus King [Mass.], Gov. Edmund Randolph [Va.]; opposed (in the main), John Lansing, Jr. [N. Y.], George Mason [Va.], Dr. William Samuel Johnson [Ct.], Judge Oliver Ellsworth [Ct.], Luther Martin [Md.], Gov. Benjamin Franklin [Pa.], George Read [Del.], Abraham Baldwin [Ga.], Gunning S. Bedford, Jr. [Del.], Gouverneur Morris [Pa.], Robert Yates and Lansing, of New York, Leave the Convention—Their Report to Gov. George Clinton—George Washington's Despairing Letter to Hamilton.

IN the debate which ensued on the adoption of the Virginia plan, the chief speakers were, mainly in the affirmative: James Wilson [Pa.], James Madison [Va.], Charles Pinckney [S. C.], Alexander Hamilton [N. Y.], Hugh Williamson [N. C.], Elbridge Gerry [Mass.], Rufus King [Mass.], and Gov. Edmund Randolph [Va.]; mainly in the negative: John Lansing, Jr. [N. Y.], George Mason [Va.], Dr. William Samuel Johnson [Ct.], Judge Oliver Ellsworth [Ct.], Luther Martin [Md.], Gov. Benjamin Franklin [Pa.], George Read [Del.], Abraham Baldwin [Ga.], Gunning S. Bedford, Jr. [Del.], and Gouverneur Morris [Pa.].

STRONG OR WEAK GOVERNMENT?

CONSTITUTIONAL CONVENTION, JUNE 19-JULY 5, 1787

MR. LANSING.—I am clearly of opinion that I am not authorized to accede to a system which will annihilate the State governments, and the Virginia plan is declarative of such extinction.

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of those who sent them. The impracticability of the plan is still more groundless. These measures are supported by one who, at his time of life, has little to hope or expect from any government. Let me ask: Will the people intrust their dearest rights and liberties to the determination of one body of men, and those not chosen by them, and who are invested both with the *sword* and *purse*? They never will—they never can—to a conclave, transacting their business secret from the eye of the public. Do we not discover by their public journals of the years 1778-9 and 1780 that factions and party spirit had guided many of their acts? The people of America, like all other people, are unsettled in their minds, and their principles fixed to no object, except that a republican government is the best and that the legislature ought to consist of two branches. The constitutions of the respective States, made and approved of by them, evince this principle. Congress, however, from other causes, received a different organization. What! would you use military force to compel the observance of a social compact? It is destructive to the rights of the people. Do you expect the militia will do it? or do you mean a standing army? The first will never, on such an occasion, exert any power; and the latter may turn its arms against the government which employs them. I never will consent to destroy State governments, and will ever be as careful to preserve the one as the other. If we should, in the formation of the latter, have omitted some necessary regulation, I will trust my posterity to amend it. That the one government will be productive of disputes and jealousies against the other, I believe; but it will produce mutual safety. I shall close with observing that, though some have expressed much warmth on this and former occasions, I can excuse it as the result of sudden passion; and hope that, although we may differ in some particular points, if we mean the good of the whole, that our good sense, upon reflection, will prevent us from spreading our discontent farther.

MR. WILSON.—The question before us may admit of the three following considerations:

1. Whether the legislature shall consist of one or two branches.
2. Whether they are to be elected by the State governments or by the people.
3. Whether in proportion to State importance, or States individually.

Confederations are usually of a short date. The Amphictyonic council was instituted in the infancy of the Grecian re-

It has been asserted that the public mind is not known. To some points it may be true; but we may collect from the fate of the requisition of the impost what it may be on the principles of a national government. When many of the States were so tenacious of their rights on this point, can we expect that thirteen States will surrender their governments up to a national plan? Rhode Island pointedly refused granting it. Certainly she had a federal right to do so; and I hold it as an undoubted truth, as long as State distinctions remain, let the national government be modified as you please, both branches of your legislature will be impressed with local and State attachments. The Virginia plan proposes a negative on the State laws where, in the opinion of the national legislature, they contravene the national government; and no laws can pass unless approved by them. They will have more than a law in a day to revise; and are they competent to judge of the wants and necessities of remote States?

This national government will, from their power, have great influence in the State governments; and the existence of the latter is only saved in appearance. And has it not been asserted that they expect their extinction? If this be the object, let us say so, and extinguish them at once. But remember, if we devise a system of government which will not meet the approbation of our constituents, we are dissolving the Union; but, if we act within the limits of our power, it will be approved of; and should it, upon experiment, prove defective, the people will intrust a future convention again to amend it. Fond as many are of a general government, do any of you believe that it can pervade the whole continent so effectually as to secure the peace, harmony, and happiness of the whole? The excellence of the British model of government has been much insisted on; but we are endeavoring to complicate it with State governments, on principles which will gradually destroy the one or the other. You are sowing the seeds of rivalry, which must at last end in ruin.

MR. MASON.—The material difference between the two plans has already been clearly pointed out. The objection to that of Virginia arises from the want of power to institute it, and the want of practicability to carry it into effect. Will the first objection apply to a power merely recommendatory? In certain seasons of public danger it is commendable to exceed power. The treaty of peace, under which we now enjoy the blessings of freedom, was made by persons who exceeded their powers. It met the approbation of the public and thus deserved the praises

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publics. As those grew in strength the council lost its weight and power. The Achaean league met the same fate. Switzerland and Holland are supported in their confederation, not by its intrinsic merit, but the incumbent pressure of surrounding bodies. Germany is kept together by the house of Austria. True, Congress carried us through the war even against its own weakness. That powers were wanting, you, Mr. President, must have felt. To other causes, not to Congress, must the success be ascribed. That the great States acceded to the Confederation, and that they, in the hour of danger, made a sacrifice of their interest to the lesser states, is true. Like the wisdom of Solomon, in adjudging the child to its true mother, from tenderness to it, the greater states well knew that the loss of a limb was fatal to the Confederation: they, too, through tenderness, sacrificed their dearest rights to preserve the whole. But the time is come when justice will be done to their claims. Situations are altered.

Congress have frequently made their appeal to the people. I wish they had always done it: the national government would sooner have been extricated.

DR. JOHNSON.—It appears to me that the Jersey plan has for its principal object the preservation of the State governments. So far it is a departure from the plan of Virginia, which, although it concentrates in a distinct national government, is not totally independent of that of the States. A gentleman from New York, with boldness and decision, proposed a system totally different from both; and, though he has been praised by everybody, he has been supported by none. How can the State governments be secured on the Virginia plan? I could have wished that the supporters of the Jersey system could have satisfied themselves with the principles of the Virginia plan, and that the individuality of the States could be supported. It is agreed, on all hands, that a portion of government is to be left to the States. How can this be done? It can be done by joining the States, in their legislative capacity, with the right of appointing the second branch of the national legislature, to represent the States individually.

MR. WILSON.—If security is necessary to preserve the one it is equally so to preserve the other. How can the national government be secured against the States? Some regulation is necessary. Suppose the national government had a competent number in the State legislature. But where the one government clashed with the other the State government ought to yield, as the preservation of the general interest must be preferred to a particular. But let us try to designate the powers of each,

and then no danger can be apprehended, nor can the general government be possessed of any ambitious views to encroach on the State rights.

MR. MADISON.—I could have wished that the gentleman from Connecticut had more accurately marked his objections to the Virginia plan. I apprehend the greatest danger is from the encroachment of the States on the national government. This apprehension is justly founded on the experience of ancient confederacies, and our own is a proof of it.

The right of negating, in certain instances, the State laws affords one security to the national government. But is the danger well founded? Have any State governments ever encroached on the corporate rights of cities? And if it was the case that the national government usurped the State government, if such usurpation was for the good of the whole, no mischief could arise. To draw the line between the two is a difficult task. I believe it cannot be done, and therefore I am inclined for a general government.

If we cannot form a general government, and the States become totally independent of each other, it would afford a melancholy prospect.

The second resolve was then put and carried—seven States for, three against, one divided.

The third resolve was then taken into consideration by the Convention.

After debate it was carried: 8 ayes, 2 noes, 1 State divided. The fourth resolution of the committee was now taken up.

MR. C. PINCKNEY.—There is more equality of rank and fortune in America than in any other country under the sun; and this is likely to continue as long as the unappropriated western lands remain unsettled. They are equal in rights, nor is extreme poverty to be seen in any part of the Union. If we are thus singularly situated, both as to fortune and rights, it evidently follows that we cannot draw any useful lessons from the examples of any of the European states or kingdoms; much less can Great Britain afford us any striking institution, which can be adapted to our own situation—unless we indeed intend to establish an hereditary executive, or one for life. Great Britain drew its first rude institutions from the forests of Germany, and with them that of its nobility. These having originally in their

isfy the people. But a general government must not be dependent on the State governments.

The United States include a territory of about fifteen hundred miles in length, and in breadth about four hundred, the whole of which is divided into States and districts. While we were dependent on the Crown of Great Britain, it was in contemplation to form the whole into one; but it was found impracticable. No legislature could make good laws for the whole, nor can it now be done. It would necessarily place the power in the hands of the few nearest the seat of government. State governments must therefore remain, if you mean to prevent confusion. The general negative powers will support the general government. Upon these considerations I am led to form the second branch differently from the report. Their powers are important, and the number not too large, upon the principle of proportion. I have considered the subject with great attention; and I propose this plan¹ [reads it]; and if no better plan is proposed I will then move its adoption.

MR. WILSON.—The question now before us is whether the second branch of the general legislature shall, or shall not, be appointed by the State legislatures. In every point of view it is an important question. The magnitude of the objects is indeed embarrassing. The great system of Henry IV of France, aided by the greatest statesmen, is small when compared to the fabric we are now about to erect. In laying the stone amiss we may injure the superstructure; and what will be the consequence if the corner-stone should be loosely placed? It is improper that the State legislatures should have the power contemplated to be given them. A citizen of America may be considered in two points of view—as a citizen of the general government, and as a citizen of the particular State in which he may reside. We ought to consider in what character he acts in forming a general government. I am both a citizen of Pennsylvania and of the United States. I must therefore lay aside my State connections and act for the general good of the whole. We must forget our local habits and attachments. The general government should not depend on the State governments. This ought to be a leading distinction between the one and the other; nor ought the general government to be composed of an assemblage of different State governments. We have unanimously agreed to establish a general government—that the powers of peace, war, treaties, coinage, and regulation of commerce ought to reside in that government. And if we reason in this manner we shall soon see the

¹See page 290.

hands the property of the state, the crown of Great Britain was obliged to yield to the claims of power which those large possessions enabled them to assert. The Commons were then too contemptible to form part of the national councils. Many parliaments were held without their being represented; until, in process of time, under the protection of the Crown, and forming distinct communities, they obtained some weight in the British government. From such discordant materials, brought casually together, those admirable checks and balances, now so much the boast of the British constitution, took their rise. But will we be able to copy from this original? Do not suppose that in the Confederation there are one hundred gentlemen of sufficient fortunes to establish a nobility; and the equality of others as to rank would never admit of the distinctions of nobility. I lay it therefore down as a settled principle that equality of condition is a leading axiom in our government. It may be said we must necessarily establish checks, lest one rank of people usurp the rights of another. Commerce can neither interfere with the government nor give a complexion to its councils. Can we copy from Greece or Rome? Have we their nobles or patricians? With them offices were open to few. The different ranks in the community formed opposite interests, and produced unceasing struggles and disputes. Can this apply to the free yeomanry of America? We surely differ from the whole. Our situation is unexampled; and it is in our power, on different grounds, to secure civil and religious liberty; and when we secure these we secure everything that is necessary to establish happiness. We cannot pretend to rival the European nations in their grandeur or power; nor is the situation of any two nations so exactly alike as that the one can adopt the regulations or government of the other. If we have any distinctions they may be divided into three classes:

1. Professional men. 2. Commercial men. 3. The landed interest.

The latter is the governing power of America, and the other two must ever be dependent on them. Will a national government suit them? No. The three orders have necessarily a mixed interest; and in that view—I repeat it again—the United States of America compose, in fact, but one order. The clergy and nobility of Great Britain can never be adopted by us. Our government must be made suitable to the people; and we are, perhaps, the only people in the world who ever had sense enough to appoint delegates to establish a general government. I believe that the propositions from Virginia, with some amendments, will sat-

impropriety of interference of State governments with the general government. Equality of representation cannot be established if the second branch is elected by the State legislatures. When we are laying the foundation of a building which is to last for ages, and in which millions are interested, it ought to be well laid. If the national government does not act upon State prejudices State distinctions will be lost. I therefore move that the second branch of the legislature of the national government be elected by electors chosen by the people of the United States.

JUDGE ELLSWORTH.—I think the second branch of the general legislature ought to be elected agreeably to the report. The other way, it is said, will be more the choice of the people. The one mode is as much so as the other. No doubt every citizen of every State is interested in the State governments; and elect him in whatever manner you please, whenever he takes a seat in the general government, it will prevail in some shape or other. The State legislatures are more competent to make a judicious choice than the people at large. Instability pervades their choice. In the second branch of the general government we want wisdom and firmness. As to balances, where nothing can be balanced it is a perfect Utopian scheme. But still great advantages will result in having a second branch endowed with the qualifications I have mentioned. Their weight and wisdom may check the inconsiderate and hasty proceedings of the first branch.

I cannot see the force of the reasoning in attempting to detach the State governments from the general government. In that case, without a standing army, you cannot support the general government but on the pillars of the State governments. Are the larger States more energetic than the smaller? Massachusetts cannot support a government at the distance of one hundred miles from her capital without an army; and how long Virginia and Pennsylvania will support their governments it is difficult to say. Shall we proceed like unskilful workmen, and make use of timber which is too weak to build a first-rate ship? We know that the people of the States are strongly attached to their own constitutions. If you hold up a system of general government, destructive of their constitutional rights, they will oppose it. Some are of opinion that, if we cannot form a general government so as to destroy State governments, we ought at least to balance the one against the other. On the contrary, the only chance we have to support a general government is to draft it on the State governments. I want to proceed on this ground, as the safest, and I believe no other plan is practicable. In this

way, and in this way only, can we rely on the confidence and support of the people.

MR. MASON.—All agree that a more efficient government is necessary. It is equally necessary to preserve the State governments, as they ought to have the means of self-defence. On the motion of Mr. Wilson, the only means they ought to have would be destroyed.

The question was put for postponing, in order to take into consideration the 8th resolve, and lost—7 noes, 4 ayes.

Question on the 1st clause in the 4th resolve—9 States for, 2 against it.

The question of the constitution of the Senate now came before the convention.

MR. READ moved that the term of "nine years" be inserted, in triennial rotation.

MR. MADISON.—We are now to determine whether the republican form shall be the basis of our government. I admit there is weight in the objection of the gentleman from South Carolina; but no plan can steer clear of objections. That great powers are to be given there is no doubt; and that those powers may be abused is equally true. It is also probable that members may lose their attachments to the States which sent them; yet the first branch will control them in many of their abuses. But we are now forming a body on whose wisdom we mean to rely, and their permanency in office secures a proper field in which they may exert their firmness and knowledge. Democratic communities may be unsteady, and be led to action by the impulse of the moment. Like individuals they may be sensible of their own weakness, and may desire the counsels and checks of friends, to guard them against the turbulence and weakness of unruly passions. Such are the various pursuits of this life that, in all civilized countries, the interest of a community will be divided. There will be debtors and creditors, and an unequal possession of property; and hence arise different views and different objects in government. This, indeed, is the groundwork of aristocracy, and we find it blended in every government, both ancient and modern. Even where titles have survived property we discover the noble beggar haughty and assuming.

The man who is possessed of wealth, who lolls on his sofa or rolls in his carriage, cannot judge of the wants or feelings of

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MR. GERRY.—It appears to me that the American people have the greatest aversion to monarchy; and the nearer our government approaches to it the less chance have we for their approbation. Can gentlemen suppose that the reported system can be approved of by them? Demagogues are the great pests of our government, and have occasioned most of our distresses. If four years are insufficient, a future convention may lengthen the time.

MR. WILSON.—The motion is now for nine years, and a triennial rotation. Every nation attends to its foreign intercourse; to support its commerce; to prevent foreign contempt; and to make war and peace. Our Senate will be possessed of these powers, and therefore ought to be dignified and permanent. What is the reason that Great Britain does not enter into a commercial treaty with us? Because Congress has not the power to enforce its observance. But give them those powers, and give them the stability proposed by the motion, and they will have more permanency than a monarchical government. The great objection of many is that this duration would give birth to views inconsistent with the interests of the Union. This can have no weight if the triennial rotation is adopted; and this plan may possibly tend to conciliate the minds of the members of the convention on this subject, which have varied more than on any other question.

The question was then put on Mr. Read's motion, and lost—8 noes, 3 ayes.

The question on five years and a biennial rotation was carried—7 ayes, 4 noes.

The 5th resolve, that each house have the right of originating bills, was taken into consideration, and agreed to.

The 6th resolve was postponed, in order to take into consideration the 7th and 8th resolves. The 1st clause of the 7th, which respected the suffrage of each State in the first branch of the legislature, was proposed for consideration. Says Judge Yates:

MR. MARTIN, the attorney-general from Maryland, spoke on this subject upward of three hours. As his arguments were too diffuse, and in many instances desultory, it was not possible to trace him through the whole,

the day-laborer. The government we mean to erect is intended to last for ages. The landed interest, at present, is prevalent; but in process of time, when we approximate to the states and kingdoms of Europe—when the number of landholders shall be comparatively small, through the various means of trade and manufactures—will not the landed interest be overbalanced in future elections? and, unless wisely provided against, what will become of your government? In England, at this day, if elections were open to all classes of people, the property of landed proprietors would be insecure. An agrarian law would soon take place. If these observations be just our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these invaluable interests, and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority. The Senate, therefore, ought to be this body; and, to answer these purposes, they ought to have permanency and stability. Various have been the propositions; but my opinion is, the longer they continue in office, the better will these views be answered.

MR. HAMILTON.—This question has already been considered in several points of view. We are now forming a republican government. Real liberty is neither found in despotism nor the extremes of democracy, but in moderate governments.

Those who mean to form a solid republican government ought to proceed to the confines of another government. As long as offices are open to all men, and no constitutional rank is established, it is pure republicanism. But if we incline too much to democracy we shall soon shoot into a monarchy. The difference of property is already great among us. Commerce and industry will still increase the disparity. Your government must meet this state of things, or combinations will, in process of time, undermine your system. What was the tribunitial power of Rome? It was instituted by the plebeians, as a guard against the patricians. But was this a sufficient check? No. The only distinction which remained at Rome was, at last, between the rich and poor. The gentleman from Connecticut forgets that the democratic body is already secure in a representation. As to Connecticut, what were the little objects of their government before the revolution? Colonial concerns merely. They ought now to act on a more extended scale; and dare they do this? Dare they collect the taxes and requisitions of Congress? Such a government may do well if they do not tax; and this is precisely their situation.

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or to methodize his ideas into a systematic or argumentative arrangement. I shall therefore note only such points as I conceive merit most particular notice.

The question is important (said Mr. Martin), and I have already expressed my sentiments on the subject. My opinion is that the general government ought to protect and secure the State governments. Others, however, are of a different sentiment, and reverse the principle.

The present reported system is a perfect medley of confederated and national government, without example and without precedent. Many, who wish the general government to protect the State governments, are anxious to have the line of jurisdiction well drawn and defined, so that they may not clash. This suggests the necessity of having this line well detailed; possibly this may be done. If we do this the people will be convinced that we meant well to the State governments; and should there be any defects they will trust a future convention with the power of making further amendments.

A general government may operate on individuals in cases of general concern, and still be federal. This distinction is with the States, as States, represented by the people of those States. States will take care of their internal police and local concerns. The general government has no interest but the protection of the whole. Every other movement must fail. We are proceeding, in forming this government, as if there were no State governments at all. The States must approve, or you will have none at all. I have never heard of a confederacy having two legislative branches. Even the celebrated Mr. Adams, who talks so much of checks and balances, does not suppose it necessary in a confederacy. Public and domestic debts are our great distress. The treaty between Virginia and Maryland, about the navigation of the Chesapeake and Potomac, is no infraction of the Confederacy. The corner-stone of a federal government is equality of votes. States may surrender this right; but if they do their liberties are lost. If I err on this point it is the error of the head, not of the heart.

The first principle of government is founded on the natural rights of individuals, and in perfect equality. Locke, Vattel, Lord Somers, and Dr. Priestley all confirm this principle. This principle of equality, when applied to an individual, is lost, in some degree, when he becomes a member of a society, to which it is transferred; and this society, by the name of *state* or *kingdom*, is, with respect to others, again on a perfect footing of equality

—a right to govern themselves as they please. Nor can any other state, of right, deprive them of this equality. If such a state confederates it is intended for the good of the whole; and if it again confederates those rights must be well guarded. Nor can any state demand a surrender of any of those rights; if it can, equality is already destroyed. We must treat, as free states, with each other, upon the same terms of equality that men originally formed themselves into societies. Vattel, Rutherford, and Locke are united in support of the position, that states, as to each other, are in a state of nature.

Thus, says Mr. Martin, have I traveled with the most respectable authorities in support of principles all tending to prove the equality of independent states. This is equally applicable to the smallest as well as the largest states, on the true principles of reciprocity and political freedom.

Unequal confederacies can never produce good effects. Apply this to the Virginia plan. Out of the number 90 Virginia has 16 votes, Massachusetts 14, Pennsylvania 12; in all 42. Add to this a State having four votes, and it gives a majority in the general legislature. Consequently, a combination of these States will govern the remaining nine or ten States. Where are the safety and independency of those States? Pursue this subject farther. The executive is to be appointed by the legislature, and becomes the executive in consequence of this undue influence; and hence flows the appointment of all your officers, civil, military, and judicial. The executive is also to have a negative on all laws. Suppose the possibility of a combination of ten States: he negatives a law; it is totally lost, because those States cannot form two-thirds of the legislatures. I am willing to give up private interest to the public good; but I must be satisfied first that it is the public interest; and who can decide this point? A majority, only, of the Union.

The Lacedemonians insisted, in the Amphictyonic council, to exclude some of the smaller states from a right to vote, in order that they might tyrannize over them. If the plan now on the table be adopted three States in the Union have the control, and they may make use of their power when they please.

If there exist no separate interests there is no danger in an equality of votes; and if there be danger the smaller States cannot yield. If the foundation of the existing Confederation is well laid powers may be added. You may safely add a third story to a house where the foundation is good. Read, then, the votes and proceedings of Congress on forming the Confederation. Virginia only was opposed to the principles of equality.

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legislatures, will be called upon for approbation—with an evident design to separate the interest of the governors from the governed. What must be the consequence? Anarchy and confusion. We lose the idea of the powers with which we are intrusted. The legislatures must approve.

By them it must, on your own plan, be laid before the people. How will such a government, over so many great States, operate? Wherever new settlements have been formed in large States they immediately want to shake off their dependency. Why? Because the government is too remote for their good. The people want it nearer home.

The basis of all ancient and modern confederacies is the freedom and the independency of the states composing it. The states forming the Amphictyonic council were equal, though Lacedemon, one of the greatest states, attempted the exclusion of three of the lesser states from this right. The plan reported, it is true, only intends to diminish those rights, not to annihilate them. It was the ambition and power of the great Grecian states which at last ruined their respectable council. The states, as societies, are ever respectable. Has Holland or Switzerland ever complained of the equality of the states which compose their respective confederacies? Berne and Zurich are larger than the remaining eleven cantons. So of many of the states of Germany; and yet their governments are not complained of. Berne alone might usurp the whole power of the Helvetic confederacy, but she is contented still with being equal.

The admission of the larger States into the Confederation, on the principles of equality, is dangerous. But on the Virginia system it is ruinous and destructive. Still it is the true interest of all the States to confederate. It is their joint efforts which must protect and secure us from foreign danger, and give us peace and harmony at home.

Here Mr. Martin entered into a detail of the comparative powers of each State, and stated their probable weakness and strength.

At the beginning of our troubles with Great Britain the smaller States were attempted to be cajoled to submit to the views of that nation, lest the larger States should usurp their rights. We then answered them, Your present plan is slavery, which, on the remote prospect of a distant evil, we will not submit to.

I would rather confederate with any single State than submit

The smaller States yielded rights, not the large States. They gave up their claim to the unappropriated lands with the tenderness of the mother recorded by Solomon. They sacrificed affection to the preservation of others. New Jersey and Maryland rendered more essential services during the war than many of the larger States. The partial representation in Congress is not the cause of its weakness, but the want of power. I would not trust a government, organized upon the reported plan, for all the slaves of Carolina, or the horses and oxen of Massachusetts. Price says that laws made by one man, or a set of men, and not by common consent, is slavery. And it is so when applied to States, if you give them an unequal representation. What are called human feelings, in this instance, are only the feelings of ambition and the lust of power.

On federal grounds it is said that a minority will govern a majority; but on the Virginia plan a minority would tax a majority. In a federal government a majority of States must and ought to tax. In local government of States counties may be unequal: still numbers, not property, govern. What is the government now forming—over States or persons? As to the latter, their rights cannot be the object of a general government. These are already secured by their guardians, the State governments. The general government is, therefore, intended only to protect and guard the rights of the States as states.

This general government, I believe, is the first upon earth which gives checks against democracies or aristocracies. The only necessary check, in a general government, ought to be a restraint to prevent its absorbing the powers of the State governments. Representation, on federal principles, can only flow from State societies. Representation and taxation are ever inseparable—not according to the quantum of property, but the quantum of freedom.

Will the representatives of a State forget State interests? The mode of election cannot change it. These prejudices cannot be eradicated. Your general government cannot be just or equal, upon the Virginia plan, unless you abolish State interests. If this cannot be done, you must go back to principles purely federal.

On this latter ground the State legislatures and their constituents will have no interests to pursue different from the general government, and both will be interested to support each other.

Under these ideas, can it be expected that the people can approve the Virginia plan? But it is said the people, not the State

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to the Virginia plan. But we are already confederated, and no power on earth can dissolve it but by the consent of *all* the contracting powers; and four States, on this floor, have already declared their opposition to annihilate it. Is the old Confederation dissolved, because some of the States wish a new Confederation?

MR. LANSING.—I move that the word "not" be struck out of the resolve, and then the question will stand on its proper ground; and the resolution will read thus: that the representation of the first branch be according to the Articles of the Confederation; and the sense of the convention on this point will determine the question of a federal or national government.

MR. MADISON.—I am against the motion. I confess the necessity of harmonizing; and if it could be shown that the system is unjust or unsafe, I would be against it. There has been much fallacy in the argument advanced by the gentleman from Maryland. He has, without advertent to many manifest distinctions, considered confederacies and treaties as standing on the same basis. In the one the powers act collectively, in the other individually. Suppose, for example, that France, Spain, and some of the smaller states in Europe should treat on war or peace, or on any other general concern; it would be done on principles of equality. But if they were to form a plan of general government, would they give, or are the greater states obliged to give to the lesser, the same and equal legislative powers? Surely not. They might differ on this point, but no one can say that the large states were wrong in refusing this concession. Nor can the gentleman's reasoning apply to the present powers of Congress; for they may, and do, in some cases, affect property—and in case of war the lives of the citizens. Can any of the lesser States be endangered by an adequate representation? Where is the probability of a combination? What the inducements? Where is the similarity of customs, manners, or religion? If there possibly can be a diversity of interest it is the case of the three large States. Their situation is remote, their trade different. The staple of Massachusetts is fish, and the carrying trade; of Pennsylvania, wheat and flour; of Virginia, tobacco. Can States thus situated in trade ever form such a combination? Do we find those combinations in the larger counties in the different State governments to produce rivalships? Does not the history of the nations of the earth verify it? Rome rivaled Carthage, and could not be satisfied before she was destroyed. The houses of Austria and Bourbon acted on the same view; and the wars of France and England have been waged through rivalry; and let me add that we, in a great measure, owe our independency to



Benjamin Franklin

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be disgraced, through little party views. I move that we have prayers every morning.

DR. JOHNSON.—States are political societies. For whom are we to form a government? for the people of America, or for those societies? Undoubtedly for the latter. They must, therefore, have a voice in the second branch of the general government if you mean to preserve their existence. The people already compose the first branch. This mixture is proper and necessary; for we cannot form a general government on any other ground.

JUDGE READ.—I would have no objection, if the government was more national; but the proposed plan is so great a mixture of both that it is best to drop it altogether. A State government is incompatible with a general government. If it was more national I would be for a representation proportionate to population.

MR. WILSON.—Some gentlemen are afraid that the plan is not sufficiently national, while others, that it is too much so. If this point of representation was once well fixed we would come nearer to one another in sentiment. The necessity would then be discovered of circumscribing more effectually the State governments, and enlarging the bounds of the general government. Some contend that States are sovereign, when in fact they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The States never possessed the essential rights of sovereignty. These were always vested in Congress. Their voting, as States, in Congress, is no evidence of sovereignty. The State of Maryland voted by counties. Did this make the counties sovereign? The States, at present, are only great corporations, having the power of making by-laws, and these are effectual only if they are not contradictory to the general Confederation. The States ought to be placed under control of the general government—at least as much so as they formerly were under the King and British Parliament. The arguments, I observe, have taken a different turn, and I hope may tend to convince all of the necessity of a strong energetic government, which would equally tend to give energy to and protect the State governments. What was the origin of the military establishment of Europe? It was the jealousy which one state or kingdom entertained of another. This jealousy was productive of evil. In Rome the patricians were often obliged to excite a foreign war to divert the attention of the plebeians from encroaching on the senatorial rights. In England and France perhaps this jealousy may give energy to

those national contending passions. France, through this motive, joined us. She might, perhaps, with less expense, have induced England to divide America between them. In Greece the contention was ever between the larger states. Sparta against Athens—and these again, occasionally, against Thebes—were ready to devour each other. Germany presents the same prospects—Prussia against Austria. Do the greater provinces in Holland endanger the liberties of the lesser? And let me remark that the weaker you make your confederation, the greater the danger to the lesser States. They can only be protected by a strong federal government. Those gentlemen who oppose the Virginia plan do not sufficiently analyze the subject. Their remarks, in general, are vague and inconclusive.

MR. WILLIAMSON.—If any argument will admit of demonstration, it is that which declares that all men have an equal right in society. Against this position, I have heard, as yet, no argument; and I could wish to hear what could be said against it. What is tyranny? Representatives of representatives, if you give them the power of taxation. From equals take equals, and the remainder is equal. What process is to annihilate smaller States I know not. But I know it must be tyranny, if the smaller States can tax the greater, in order to ease themselves. A general government cannot exercise direct taxation. Money must be raised by duties and imposts, etc., and this will operate equally. It is impossible to tax according to numbers. Can a man over the mountains, where produce is a drug, pay equal with one near the shore?

MR. WILSON.—I should be glad to hear the gentleman from Maryland [Mr. Martin] explain himself upon the remark on Old Sarum, when compared with the city of London. He has allowed this to be an unjust proportion; as in the one place one man sends two members, and in the other one million are represented by four members. I would be glad to hear how he applies this to the larger and smaller States in America; and whether the borough, as a borough, is represented, or the people of the borough.

MR. MARTIN rose to explain. Individuals, as composing a part of the whole of one consolidated government, are there represented.

GOV. FRANKLIN read some remarks acknowledging the difficulties of the present subject. Neither ancient nor modern history (said Gov. Franklin) can give us light. As a sparrow does not fall without divine permission, can we suppose that governments can be erected without his will? We shall, I am afraid,

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their governments, and contribute to their existence. But a state of danger is like a state of war, and it unites the various parts of the government to exertion. May not our distractions, however, invite danger from abroad? If the power is not immediately derived from the people, in proportion to their numbers, we may make a paper confederacy, but that will be all. We know the effects of the old Confederation, and without a general government this will be like the former.

MR. HAMILTON.—The course of my experience in human affairs might perhaps restrain me from saying much on this subject. I shall, however, give birth to some of the observations I have made during the course of this debate. The gentleman from Maryland has been at great pains to establish positions which are not denied. Many of them, as drawn from the best writers on government, are become almost self-evident principles. But I doubt the propriety of his application of those principles in the present discussion. He deduces from them the necessity that states entering into a confederacy must retain the equality of votes. This position cannot be correct. Facts plainly contradict it. The Parliament of Great Britain asserted a supremacy over the whole empire; and the celebrated Judge Blackstone labors for the legality of it, although many parts were not represented. This parliamentary power we opposed as contrary to our colonial rights. With that exception, throughout that whole empire, it is submitted to. May not the smaller and greater States so modify their respective rights as to establish the general interest of the whole, without adhering to the right of equality? Strict representation is not observed in any of the State governments. The Senate of New York are chosen by persons of certain qualifications, to the exclusion of others. The question, after all is, Is it our interest, in modifying this general government, to sacrifice individual rights to the preservation of the rights of an artificial being, called states? There can be no truer principle than this—that every individual of the community at large has an equal right to the protection of government. If, therefore, three States contain a majority of the inhabitants of America, ought they to be governed by a minority? Would the inhabitants of the great States ever submit to this? If the smaller States maintain this principle, through a love of power, will not the larger, from the same motive, be equally tenacious to preserve their power? They are to surrender their rights: for what?—for the preservation of an artificial being. We propose a free government. Can it be so if partial distinctions are maintained? I agree with the gentleman from Delaware that, if the State governments are to act

in the general government, it affords the strongest reason for exclusion. In the State of New York five counties form a majority of representatives, and yet the government is in no danger, because the laws have a general operation. The small States exaggerate their danger, and on this ground contend for an unproportion of power. But their danger is increased if the larger States will not submit to it. Where will they form new alliances for their support? Will they do this with foreign powers? Foreigners are jealous of our increasing greatness, and would rejoice in our distractions. Those who have had opportunities of conversing with foreigners respecting sovereigns in Europe have discovered in them an anxiety for the preservation of our democratic governments, probably for no other reason but to keep us weak. Unless your government is respectable foreigners will invade your rights; and to maintain tranquillity you must be respectable; even to observe neutrality you must have a strong government. I confess our present situation is critical. We have just finished a war which has established our independence, and loaded us with a heavy debt. We have still every motive to unite for our common defence. Our people are disposed to have a good government; but this disposition may not always prevail. It is difficult to amend confederations. It has been attempted in vain, and it is perhaps a miracle that we are now met. We must therefore improve the opportunity, and render the present system as perfect as possible. Their good sense, and, above all, the necessity of their affairs, will induce the people to adopt it.

MR. GERRY.—It appears to me that the States never were independent; they had only corporate rights. Confederations are a mongrel kind of government, and the world does not afford a precedent to go by. Aristocracy is the worst kind of government, and I would sooner submit to a monarchy. We must have a system that will execute itself.

The question was then put on Mr. Lansing's motion, and lost—4 ayes, 6 noes, 1 State divided.

Question on the clause—6 ayes, 4 noes, and 1 State divided.

JUDGE ELLSWORTH.—I move that the consideration of the 8th resolve be postponed. Carried—9 ayes, 2 noes.

I now move the following amendment to the resolve—that, in the second branch, each State have an equal vote. I confess that the effect of this motion is to make the general government partly federal and partly national. This will secure tranquillity,

and still make it efficient; and it will meet the objections of the larger States. In taxes they will have a proportional weight in the first branch of the general legislature. If the great States refuse this plan we will be forever separated. Even in the executive the larger States have ever had influence. The province of Holland ever had it. If all the states are to exist they must necessarily have an equal vote in the general government. Small communities, when associating with greater, can only be supported by an equality of votes. I have always found, in my reading and experience, that in all societies the governors are ever gradually rising into power.

The large States, although they may not have a common interest for combination, yet they may be partially attached to each other for mutual support and advancement. This can be more easily effected than the union of the remaining small States to check it; and ought we not to regard antecedent plighted faith to the Confederation already entered into, and by the terms of it declared to be perpetual? And it is not yet obvious to me that the States will depart from this ground. When in the hour of common danger we united as equals, shall it now be urged by some that we must depart from this principle when the danger is over? Will the world say that this is just? We then associated as free and independent States, and were well satisfied. To perpetuate that independence I wish to establish a national legislature, executive and judiciary; for under these we shall, I doubt not, preserve peace and harmony. Nor would I be surprised (although we made the general government the most perfect, in our opinion) that it should hereafter require amendment. But at present this is as far as I possibly can go. If this convention only chalk out lines of good government we shall do well.

MR. BALDWIN.—It appears to be agreed that the government we should adopt ought to be energetic and formidable, yet I would guard against the danger of being too formidable. The second branch ought not to be elected as the first. Suppose we take the example of the Constitution of Massachusetts, as it is commended for its goodness. There the first branch represents the people, and the second its property.

MR. MADISON.—I would always exclude inconsistent principles in framing a system of government. The difficulty of getting its defects amended are great, and sometimes insurmountable. The Virginia State government was the first which was made; and, though its defects are evident to every person, we cannot get it amended. The Dutch have made four several attempts to amend

their system, without success. The few alterations made in it were by tumult and faction, and for the worse. If there was real danger I would give the smaller States the defensive weapons. But there is none from that quarter. The great danger to our general government is the great southern and northern interests of the continent being opposed to each other. Look to the votes in Congress, and most of them stand divided by the geography of the country, not according to the size of the States.

Suppose the first branch granted money; may not the second branch, from State views, counteract the first? In Congress the single State of Delaware prevented an embargo, at the time that all the other States thought it absolutely necessary for the support of the army. Other powers, and those very essential, besides the legislative, will be given to the second branch—such as the negating all State laws. I would compromise on this question, if I could do it on correct principles, but otherwise not. If the old fabric of the Confederation must be the groundwork of the new we must fail.

MR. WILSON.—The question now before us is of so much consequence that I cannot give it a silent vote. Gentlemen have said that, if this amendment is not agreed to, a separation to the north of Pennsylvania may be the consequence. This staggers me neither in my sentiments nor my duty. If a minority should refuse their assent to the new plan of a general government, and if they will have their own will, and without it separate the Union, let it be done; but we shall stand supported by stronger and better principles. The opposition to this plan is as 22 to 90, in the general scale—not quite a fourth part of the Union. Shall three-fourths of the Union surrender their rights for the support of that artificial being called *State interest*? If we must join issue, I am willing. I cannot consent that one-fourth shall control the power of three-fourths.

If the motion is adopted seven States will control the whole, and the lesser seven compose 24 out of 90. One-third must control two-thirds—24 overrule 66. For whom do we form a Constitution? For men, or for imaginary beings called States—a mere metaphysical distinction? Will a regard to State rights justify the sacrifice of the rights of men? If we proceed on any other foundation than the last our building will neither be solid nor lasting. Weight and numbers is the only true principle: every other is local, confined, or imaginary. Much has been said of the danger of the three larger States combining together to give rise to monarchy or an aristocracy. Let the probability of this combination be explained, and it will be found that a rival-

ship, rather than a confederacy, will exist among them. Is there a single point in which this interest coincides? Supposing that the executive should be selected from one of the larger States; can the other two be gratified? Will not this be a source of jealousy among them; and will they not separately court the interest of the smaller States, to counteract the views of a favorite rival? How can aristocracy arise from this combination, more than among the smaller States? On the contrary, the present claims of the smaller States lead directly to the establishment of an aristocracy, which is the government of the few over the many; and the Connecticut proposal removes only a small part of the objection. There are only two kinds of bad government—the one, which does *too much*, and therefore oppressive, and the other, which does *too little*, and therefore weak. Congress partakes of the latter, and the motion will leave us in the same situation, and as much fettered as ever we were. The people see its weakness, and would be mortified in seeing our inability to correct it.

The gentleman from Georgia [Mr. Baldwin] has doubts how to vote on this question, and wishes some qualification made. I admit there ought to be some difference as to the numbers in the second branch; and perhaps there are other distinctions which could, with propriety, be introduced; such, for example, as the qualifications of the elected, etc. However, if there are leading principles in the system which we adopt, much may be done in the detail. We all aim at giving the general Government more energy. The State governments are necessary and valuable. No liberty can be obtained without them. On this question depend the essential rights of the general Government and of the people.

JUDGE ELLSWORTH.—I have the greatest respect for the gentleman who spoke last. I respect his abilities, although I differ from him on many points. He asserts that the general government must depend on the equal suffrage of the people. But will this not put it in the power of the few States to control the rest? It is a novel thing in politics that the few control the many. In the British government the few, as a guard, have an equal share in the government. The House of Lords, although few in number, and sitting in their own right, have an equal share in the legislature. They cannot give away the property of the community, but they can prevent the Commons from being too lavish in their gifts. Where is, or was, a confederation ever formed, where equality of voices was not a fundamental principle? Mankind are apt to go from one extreme to another; and, because we have found defects in the Confederation, must we therefore

pull down the whole fabric, foundation and all, in order to erect a new building, totally different from it, without retaining any of its materials? What are its defects? It is said equality of votes has embarrassed us. But how? Would the real evils of our situation have been cured had this not been the case? Would the proposed amendment on the Virginia plan, as to representation, have relieved us? I fancy not. Rhode Island has been often quoted as a small State, and by its refusal once defeated the grant of the impost. Whether she was right in doing so is not the question; but was it a federal requisition? And if it was not, she did not, in this instance, defeat a federal measure.

If the larger States seek security, they have it fully in the first branch of the general government. But can we turn the tables, and say that the lesser States are equally secure? In *commercial regulations* they will unite. If policy should require free ports they would be found at Boston, Philadelphia, and Alexandria. In the disposition of lucrative offices they would unite. But I ask no surrender of any of the rights of the great States; nor do I plead *duress* in the makers of the old Confederation, nor suppose they soothed the danger, in order to resume their rights when the danger was over. No; small States must possess the power of self-defence, or be ruined. Will any one say there is no diversity of interests in the States? And, if there is, should not those interests be guarded and secured? But if there is none, then the large States have nothing to apprehend from an equality of rights. And let it be remembered that these remarks are not the result of partial or local views. The State I represent is respectable, and in importance holds a middle rank.

MR. MADISON.—Notwithstanding the admirable and close reasoning of the gentleman who spoke last, I am not yet convinced that my former remarks are not well founded. I apprehend that he is mistaken as to the fact on which he builds one of his arguments. He supposes that equality of votes is the principle on which all confederacies are formed. That of Lycia, so justly applauded by the celebrated Montesquieu, was different. He also appeals to our good faith for the observance of the confederacy. We know we have found one inadequate to the purposes for which it was made. Why then adhere to a system which is proved to be so remarkably defective? I have impeached a number of States for the infraction of the Confederation; and I have not even spared my own State, nor can I justly spare his. Did not Connecticut refuse her compliance to the federal requisition? Has she paid, for the two last years, any money into the Conti-

mental treasury? And does this look like government, or the observance of a solemn compact? Experience shows that the Confederation is radically defective; and we must, in a new national government, guard against those defects. Although the large States in the first branch have weight proportionate to their population, yet, as the smaller States have an equal vote in the second branch, they will be able to control and leave the larger without any essential benefit. As peculiar powers are intended to be granted to the second branch, such as the negating State laws, etc., unless the larger States have a proportionate weight in the representation they cannot be more secure.

MR. WILSON.—I think the second branch ought not to be numerous. I will propose an expedient: Let there be one member for every 100,000 souls, and the smallest States not less than one member each. This would give about twenty-six members. I make this proposal, not because I belong to a large State, but in order to pull down a rotten house, and lay a foundation for a new building. To give additional weight to an old building is to hasten its ruin.

GOV. FRANKLIN.—The smaller States, by this motion, would have the power of giving away the money of the greater States. There ought to be some difference between the first and second branches. Many expedients have been proposed, and, I am sorry to remark, without effect. A joiner, when he wants to fit two boards, takes off with his plane the uneven parts from each side, and thus they fit. Let us do the same. We are all met to do something.

I shall propose an expedient: Let the Senate be elected by the States equally; in all acts of sovereignty and authority let the votes be equally taken—the same in the appointment of all officers, and salaries; but in passing of laws each State shall have a right of suffrage in proportion to the sums they respectively contribute. Among merchants, where a ship has many owners, her destination is determined in that proportion. I have been one of the ministers to France from this country during the war, and we should have been very glad if they would have permitted us a vote in the distribution of the money to carry on the war.

MR. BEDFORD.—That all the States at present are equally sovereign and independent has been asserted from every quarter of this house. Our deliberations here are a confirmation of the position; and I may add to it that each of them acts from interested, and many from ambitious, motives. Look at the votes which have been given on the floor of this house, and it will be

found that their numbers, wealth, and local views have actuated their determinations; and that the larger States proceed as if our eyes were already perfectly blinded. Impartiality, with them, is already out of the question; the reported plan is their political creed, and they support it, right or wrong. Even the diminutive State of Georgia has an eye to her future wealth and greatness. South Carolina, puffed up with the possession of her wealth and negroes, and North Carolina, are all, from different views, united with the great States. And these latter, although it is said they can never, from interested views, form a coalition, we find closely united in one scheme of interest and ambition (notwithstanding they endeavor to amuse us with the purity of their principle and the rectitude of their intentions) in asserting that the general government must be drawn from an equal representation of the people. Pretences to support ambition are never wanting. Their cry is, Where is the danger? and they insist that although the powers of the general government will be increased, yet it will be for the good of the whole; and, although the three great States form nearly a majority of the people of America, they never will hurt or injure the lesser States. *I do not, gentlemen, trust you.* If you possess the power, the abuse of it could not be checked; and what, then, would prevent you from exercising it to our destruction? You gravely allege that there is no danger of combination, and triumphantly ask, "How could combinations be effected? The large States," you say, "all differ in productions and commerce; and experience shows that, instead of combinations, they would be rivals, and counteract the views of one another." This, I repeat, is language calculated only to amuse us. Yes, sir, the larger States will be rivals, but not against each other—they will be rivals against the *rest of the States*. But it is urged that such a government would suit the people, and that its principles are equitable and just. How often has this argument been refuted, when applied to a *federal* government! The small States never can agree to the Virginia plan; and why, then, is it still urged? But it is said that it is not expected that the State governments will approve the proposed system, and that this House must directly carry it to the people for their approbation! Is it come to this, then, that *the sword* must decide this controversy, and that the horrors of war must be added to the rest of our misfortunes? But what have the people already said? "We find the Confederation defective. Go, and give additional powers to the Confederation—give to it the imposts, regulation of trade, power to collect the taxes, and the means to discharge our foreign and domestic debts."

Can we not, then, as their delegates, agree upon these points? As their ambassadors, can we not clearly grant those powers? Why, then, when we are met, must entire distinct and new grounds be taken, and a government of which the people had no idea be instituted? And are we to be told, if we won't agree to it, it is the last moment of our deliberations? I say, it is indeed the last moment, if we do not agree to this assumption of power. The States will never again be entrapped into a measure like this. The people will say, The *small* States would confederate, and grant further powers to Congress; but you, the *large* States, would not. Then the fault would be yours, and all the nations of the earth will justify us. But what is to become of our public debts, if we dissolve the Union? Where is your plighted faith? Will you crush the smaller States, or must they be left unmolested? Sooner than be ruined, there are *foreign powers who will take us by the hand*.

I say not this to threaten or intimidate, but that we should reflect seriously before we act. If we once leave this floor, and solemnly renounce your new project, what will be the consequence? You will annihilate your federal government, and ruin must stare you in the face. Let us, then, do what is in our power—*amend and enlarge the Confederation, but not alter the federal system*. The people expect this, and no more. We all agree in the necessity of a more efficient government—and cannot this be done? Although my State is small, I know and respect its rights, as much, at least, as those who have the honor to represent any of the larger States.

MR. KING.—I am in sentiment with those who wish the preservation of State governments; but the general Government may be so constituted as to effect it. Let the Constitution we are about forming be considered as a *commission* under which the general government shall act, and as such it will be the guardian of the State rights. The rights of Scotland are secure from all danger and encroachments, although in the Parliament she has a small representation. May not this be done in our general Government? Since I am up, I am concerned for what fell from the gentleman from Delaware [Mr. Bedford]—"Take a *foreign power by the hand*!" I am sorry he mentioned it, and I hope he is able to excuse it to himself on the score of passion. Whatever may be my distress, I never will court a foreign power to assist in relieving myself from it.

The question was put on Ellsworth's motion—5 ayes, 5 noes, 1 State divided. So the amendment was lost.

Mr. C. PINCKNEY.—As a professional man, I might say that there is no weight in the argument adduced in favor of the motion on which we are divided; but candor obliges me to own that equality of suffrage in the States is wrong. Prejudices will prevail, and they have an equal weight in the larger as in the smaller States. There is a solid distinction, as to interest, between the Southern and Northern States. To destroy the ill effects thereof, I renew the motion which I made in the early stage of this business. (See page 323.)

Gen. C. C. Pinckney moved for a select committee to take into consideration both branches of the legislature.

Mr. MARTIN.—It is again attempted to compromise. You must give each State an equal suffrage, or our business is at an end.

Mr. SHERMAN.—It seems we have got to a point that we cannot move one way or the other. Such a committee is necessary to set us right.

Mr. G. MORRIS.—The two branches, so equally poised, cannot have their due weight. It is confessed, on all hands, that the second branch ought to be a check on the first; for without its having this effect it is perfectly useless. The first branch, originating from the people, will ever be subject to *precipitancy, changeability, and excess*. Experience evinces the truth of this remark, without having recourse to reading. This can only be checked by *ability and virtue* in the second branch. On your present system, can you suppose that one branch will possess it more than the other? The second branch ought to be composed of men of great and established property—*aristocracy*; men who, from pride, will support consistency and permanency; and to make them completely independent they must be chosen *for life*, or they will be a useless body. Such an aristocratic body will keep down the turbulence of democracy. But if you elect them for a shorter period they will be only a name, and we had better be without them. Thus constituted, I hope they will show us the weight of aristocracy.

History proves, I admit, that the men of large property will uniformly endeavor to establish tyranny. How, then, shall we ward off this evil? Give them the second branch and you secure their weight for the public good. They become responsible for their conduct, and this lust of power will ever be checked by the democratic branch, and thus form a stability in your government. But if we continue changing our measures by the breadth of

an unequal representation in the second branch, may not a check be found in the appointment of one executive, by electing him by an equality of State votes? He must have the right of interposing between the two branches, and this might give a reasonable security to the smaller States. Not one of the lesser States can exist by itself; and a dissolution of the Confederation, I confess, would produce contentions as well in the larger as in the smaller States. The principle of self-preservation induces me to seek for a government that will be stable and secure.

The motion was then put to appoint a committee to report upon the 8th resolve, and so much of the 7th as had not been agreed to. The motion was carried—9 States against 2.

The *grand committee* met on July 3. Mr. Gerry was chosen chairman. Says Judge Yates:

The committee proceeded to consider in what manner they should discharge the business with which they were intrusted. By the proceedings in the convention they were so equally divided on the important question of *representation in the two branches*, that the idea of a conciliatory adjustment must have been in contemplation of the house in the appointment of this committee. But still, how to effect this salutary purpose was the question. Many of the members, impressed with the utility of a general government, connected with it the indispensable necessity of a representation from the States *according to their numbers and wealth*; while others, equally tenacious of the rights of the States, would admit of no other representation but such as was *strictly federal*, or, in other words, *equality of suffrage*. This brought on a discussion of the principles on which the house had divided, and a lengthy recapitulation of the arguments advanced in the house in support of these opposite propositions. As I had not openly explained my sentiments on any former occasion on this question, but constantly, in giving my vote, showed by attachment to the national government on federal principles, I took this occasion to explain my motives.

These remarks gave rise to a motion of Dr. Franklin, which after some modification, was agreed to, and made the basis of the following report of the committee:

democracy, who will confide in our engagements? Who will trust us? Ask any person whether he reposes any confidence in the government of Congress, or that of the State of Pennsylvania, he will readily answer you, No. Ask him the reason, and he will tell you it is because he has no confidence in their stability.

You intend also that the second branch shall be incapable of holding any office in the general government. It is a dangerous expedient. They ought to have every inducement to be interested in your government. Deprive them of this right, and they will become inattentive to your welfare. The wealthy will ever exist; and you never can be safe unless you gratify them, as a body, in the pursuit of honor and profit. Prevent them by positive institutions, and they will proceed in some left-handed way. A son may want a place—you mean to prevent him from promotion. They are not to be paid for their services; they will in some way pay themselves; nor is it in your power to prevent it. It is good policy that men of property be collected in one body, to give them one common influence in your government. Let vacancies be filled up, as they happen, by the executive. Besides, it is of little consequence, on this plan, whether the States are equally represented or not. If the State governments have the division of many of the loaves and fishes, and the general government few, it cannot exist. This Senate would be one of the *baubles* of the general government. If you choose them for *seven years*, whether chosen by the people or the States, whether by equal suffrage or in any other proportion, how will they be a check? They will still have local and State prejudices. A government by compact is no government at all. You may as well go back to your congressional federal government, where, in the character of ambassadors, they may form treaties for each State.

I avow myself the advocate of a strong government; still I admit that the influence of the rich must be guarded; and a pure democracy is equally oppressive to the lower order of the community. This remark is founded on the experience of history. We are a commercial people, and as such will be obliged to engage in European politics. Local government cannot apply to the general government. These latter remarks I throw out only for the consideration of the committee who are to be appointed.

Gov. RANDOLPH.—I am in favor of appointing a committee; but, considering the warmth exhibited in debate, I have, I confess, no great hopes that any good will arise from it. Cannot a remedy be devised? If there is danger to the lesser States, from

The committee to whom was referred the 8th resolution reported from the committee of the whole house, and so much of the 7th as had not been decided on, submit the following report:

"That the subsequent propositions be recommended to the convention, on condition that both shall be generally adopted.

"That, in the first branch of the legislature, each of the States now in the Union be allowed one member for every 40,000 inhabitants of the description reported in the 7th resolution of the committee of the whole house. That each State, not containing that number, shall be allowed one member.

"That bills for raising or apportioning money, and for fixing salaries of the officers of government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch.

"That, in the second branch of the legislature, each State shall have an equal vote."

On July 5 the report of the committee was read to the convention. The astute manager of the "large States" interests expressed either real or assumed displeasure with it.

Mr. MADISON.—I restrain myself from animadverting on the report, from the respect I bear to the members of the committee. I must confess I see nothing of concession in it.

The originating money bills is no concession on the part of the smaller States; for, if seven States in the second branch should want such a bill, their interest in the first branch will prevail to bring it forward. It is nothing more than a nominal privilege.

The second branch, small in number, and well connected, will ever prevail. The power of regulating trade, imposts, treaties, etc., is more essential to the community than raising money, and no provision is made for those in the report. We are driven to an unhappy dilemma. Two-thirds of the inhabitants of the Union are to please the remaining one-third by sacrificing their essential rights.

When we satisfy the majority of the people in securing their rights, we have *nothing* to fear; in any other way, *everything*. The smaller States, I hope, will at last see their true and real interest; and I hope that the warmth of the gentleman from Delaware [Mr. Bedford] will never induce him to yield to his own suggestion of seeking for foreign aid.

At this period (July 5, 1787) Messrs. Yates and Lansing left the convention, and the remainder of the session was employed to complete the Constitution, on the principles already adopted.

LETTER OF YATES AND LANSING TO GOV. CLINTON

After the Constitution was adopted Messrs. Yates and Lansing wrote a letter to Gov. George Clinton of New York justifying their course in leaving the convention. In it they state:

We have been reduced to the disagreeable alternative of either exceeding the powers delegated to us, and giving assent to measures which we conceive destructive to the political happiness of the citizens of the United States, or opposing our opinions to that of a body of respectable men, to whom those citizens had given the most unequivocal proofs of confidence. Thus circumstanced, under these impressions, to have hesitated would have been to be culpable. We therefore gave the principles of the Constitution, which has received the sanction of a majority of the convention, our decided and unreserved dissent; but we must candidly confess that we should have been equally opposed to any system, however modified, which had in object the consolidation of the United States into one government.

We beg leave, briefly, to state some cogent reasons, which, among others, influenced us to decide against a consolidation of the States. These are reducible into two heads:

1st. The limited and well-defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude as to assent to a general Constitution, in subversion of that of the State.

2d. A conviction of the impracticability of establishing a general government, pervading every part of the United States, and extending essential benefits to all.

Our powers were explicit, and confined to the sole and express purpose of revising the Articles of Confederation, and reporting such alterations and provisions therein as should render the Federal Constitution adequate to the exigencies of government and the preservation of the Union. . . .

Exclusive of our objections originating from the want of power, we entertained an opinion that a general government, however guarded by declarations of rights, or cautionary provisions, must unavoidably, in a short time, be productive of the

destruction of the civil liberty of such citizens as could be effectually coerced by it, by reason of the extensive territory of the United States, the dispersed situation of its inhabitants, and the insuperable difficulty of controlling or counteracting the views of a set of men (however unconstitutional and oppressive their acts might be) possessed of all the powers of government, and who, from their remoteness from their constituents, and necessary permanency of office, could not be supposed to be uniformly actuated by an attention to their welfare and happiness; that, however wise and energetic the principles of the general government might be, the extremities of the United States could not be kept in due submission and obedience to its laws, at the distance of many hundred miles from the seat of government; that, if the general legislature was composed of so numerous a body of men as to represent the interests of all the inhabitants of the United States, in the usual and true ideas of representation, the expense of supporting it would become intolerably burdensome; and that, if a few only were vested with a power of legislation, the interests of a great majority of the inhabitants of the United States must necessarily be unknown; or, if known, even in the first stage of the operations of the new government, unattended to.

These reasons were, in our opinion, conclusive against any system of consolidated government; to that recommended by the convention we suppose most of them very forcibly apply. . . .

We were not present at the completion of the new Constitution; but before we left the convention its principles were so well established as to convince us that no alteration was to be expected to conform it to our ideas of expediency and safety. A persuasion that our further attendance would be fruitless and unavailing rendered us less solicitous to return.

The retirement of Yates and Lansing as a protest against a strong government had a very depressing effect upon Washington. On July 10 he wrote as follows to Hamilton, who was in New York opposing the influence in that State of the two dissidents:

I almost despair of seeing a favorable issue to the proceedings of the convention, and do therefore repent having had any agency in the business.

The men who oppose a strong and energetic government are, in my opinion, narrow minded politicians, or are under the influence of local views.—The apprehension expressed by them

that the people will not accede to the form proposed is the ostensible, not the real, cause of the opposition—but admitting that the present sentiment is as they prognosticate, the question ought nevertheless to be, is it, or is it not, the best form?—If the former, recommend it, and it will assuredly obtain mauger opposition.

I am sorry you went away. I wish you were back. The crisis is equally important and alarming, and no opposition under such circumstances should discourage exertions till the signature is fixed.

CHAPTER XIII

ON THE POWERS OF THE PRESIDENT, NATIONAL CONTROL OF COMMERCE, AND SLAVERY

[MINOR DEBATES IN THE CONSTITUTIONAL CONVENTION]

Debate on the Powers of the President—Debate on Congress's Power over Commerce, including Abolition of Slave Trade—Debate on Counting Slaves in Apportioning Representatives in Congress: in favor, Roger Sherman [Ct.], Oliver Ellsworth [Ct.], Gen. Charles Cotesworth Pinckney [S. C.], John Rutledge, Sr. [S. C.], Pierce Butler [S. C.]; opposed, Rufus King [Mass.], Gouverneur Morris [Pa.], James Wilson [Pa.], John Dickinson [Pa.], Jonathan Dayton [N. J.], George Mason [Va.]—Resolutions Adopted Are Referred to "Committee of Detail" to Draft Constitution—This Committee's Draft Referred to "Committee on Revision"—Finished Draft Signed and Sent to Congress—Letter to Congress—Dissolution of the Convention.

THE chief subjects of discussion after the settlement of the great question of the representation of the States in Congress were the nature and powers of the executive and the regulation by Congress of navigation, including the slave trade.

POWERS OF THE PRESIDENT

The organization of a supreme executive presented many difficulties, arising not merely from the nature of the subject, but from the complicated system of the government. The mode of choice, and whether to consist of one or more persons, the time for which the executive should be chosen, whether reëligible, and the powers to be granted to the person or persons who should administer the government were questions of new impression, and which the members of the convention found it extremely difficult to settle in a manner satisfactory even to themselves. After much deliberation,

on the 26th of July, a majority of the States, being six against three and one divided,¹ agreed to the following plan:

That a national executive be instituted—
To consist of a single person;
To be chosen by the national legislature;
For the term of seven years;
To be ineligible a second time;
With power to carry into execution the national laws;
To appoint to offices in cases not otherwise provided for;
To be removeable on impeachment and conviction of malpractice or neglect of duty;
To receive a fixed compensation for the devotion of his time to public service;
To be paid out of the public treasury.

This plan was referred to the committee appointed to prepare the Constitution, and was incorporated in the first draft reported by them.

This important subject remained undecided until the 31st of August, when it was referred to a committee of one from each State; and on the 4th of September the committee reported an entirely new plan, which, after some amendments, was adopted.

NATIONAL CONTROL OF COMMERCE

As the national legislature was invested with the exclusive power of regulating commerce with foreign nations, and of course could pass *navigation acts*, a difference arose between the navigating and non-navigating States respecting the exercise of this power. The latter were jealous that the former might be disposed to secure to themselves improper advantages in the carrying trade. In the first draft of the Constitution, therefore, the power of Congress was limited in this respect by a special provision, that "*no navigation acts should be passed, without the assent of two-thirds of the members present in each house.*"

¹ New Hampshire, Connecticut, New Jersey, North Carolina, South Carolina, and Georgia were in the affirmative—Pennsylvania, Delaware, and Maryland, in the negative—and Virginia was divided. See also Hamilton's letter to Pickering on page 313.

DEBATE ON SLAVE REPRESENTATION

CONSTITUTIONAL CONVENTION, AUGUST 8-29, 1787

In the debate of August 8 on the adoption of the report of the committee.

MR. RUFUS KING (then of Massachusetts, afterward an eminent Senator from New York) wished to know what influence the vote just passed was meant to have on the succeeding part of the report concerning the admission of slaves into the rule of representation. He could not reconcile his mind to the article, if it was to prevent objections to the latter part. The admission of slaves was a most grating circumstance to his mind, because he had hoped that this concession would have produced a readiness which had not been manifested to strengthen the general government and to make a full confidence in it. The report under consideration had, by the tenor of it, put an end to all his hopes. In two great points the hands of the legislature were absolutely tied. The importation of slaves could not be prohibited. Exports could not be taxed. Is this reasonable? What are the great objects of the general system? First, defence against foreign invasion; second, against internal sedition. Shall all the States then be bound to defend each, and shall each be at liberty to introduce a weakness which will render defence more difficult? Shall one part of the United States be bound to defend another part, and that other part be at liberty, not only to increase its own danger, but to withhold a compensation for the burden? If slaves are to be imported, shall not the exports produced by their labor supply a revenue, the better to enable the general government to defend their masters? . . . He never could agree to let them be imported without limitation, and then be represented in the national legislatures. Indeed, he could so little persuade himself of the rectitude of such a practice that he was not sure that he could assent to it under any circumstances.

MR. ROGER SHERMAN (of Connecticut) regarded the slave trade as iniquitous, but the point of representation having been settled after much difficulty and deliberation he did not think himself bound to make opposition, especially as the present article, as amended, did not preclude any arrangement whatever on that point in another place reported.

MR. GOUVERNEUR MORRIS moved to insert "free" before the word "inhabitants." Much, he said, would depend on this

Some of the slave-holding States also wished to secure to themselves the right of importing slaves, free from any tax or duty. A clause was therefore at first inserted, declaring that Congress should not prohibit the importation of such persons as the States might think proper to admit, nor lay any tax on the persons so imported.

The question was at last referred to a committee of one from each State. This committee, by way of compromise, reported that "the migration or importation of such persons as the several States *now existing* shall think proper to admit shall not be prohibited by the legislature prior to the year 1800; but a tax may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imports."

The same committee also reported against the provision requiring the assent of *two-thirds* of the members of each house to pass *navigation acts*. This report, after an amendment, extending the time of allowing such importation to 1808, and limiting the tax on each person to ten dollars, was adopted by a majority of the States, those in favor of allowing the importation of slaves until 1808 being New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, and Georgia—those against it being New Jersey, Pennsylvania, Delaware, and Virginia.

The adoption of this provision brought up the question of the counting of slaves when Representatives were to be assigned to the States in ratio of population. The following report of the discussion that ensued is taken from the "Madison Papers."

The chief speakers in favor of slave representation were: Roger Sherman and Oliver Ellsworth of Connecticut, Gen. Charles Cotesworth Pinckney, John Rutledge, Sr., and Pierce Butler of South Carolina, and Abraham Baldwin of Georgia; those opposed were: Rufus King of Massachusetts, Gouverneur Morris, James Wilson, and John Dickinson of Pennsylvania, Jonathan Dayton of New Jersey, and George Mason of Virginia.

point. He never could concur in upholding domestic slavery. It was a nefarious institution. It was the curse of heaven on the States where it prevailed. Compare the free regions of the Middle States, where a rich and noble cultivation marks the prosperity and happiness of the people, with the misery and poverty which overspread the barren wastes of Virginia, Maryland, and the other States having slaves. Travel through the whole continent and you behold the prospect continually varying with the appearance and disappearance of slavery. . . . Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them citizens and let them vote. Are they property? Why then is no other property included? The houses in this city (Philadelphia) are worth more than all the wretched slaves that cover the rice swamps of South Carolina. The admission of slaves into the representation, when fairly explained, comes to this: that the inhabitant of Georgia or South Carolina, who goes to the coast of Africa, and, in defiance of the most sacred laws of humanity, tears away his fellow-creatures from their dearest connections and dooms them to the most cruel bondage shall have more votes in a government instituted for the protection of the rights of mankind than the citizen of Pennsylvania or New Jersey, who views with a laudable horror so nefarious a practice. He would add that domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. . . . Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the general government can stretch its hand directly into the pockets of the people scattered over so vast a country. They can only do it through the medium of exports, imports, and excises. For what then are all the sacrifices to be made? He would sooner submit himself to a tax, paying for all the negroes in the United States, than *saddle posterity with such a Constitution*.

MR. DAYTON (of New Jersey) seconded the motion. He did it, he said, that his sentiments on the subject might appear, whatever might be the fate of the amendment.

MR. SHERMAN did not regard the admission of negroes into the ratio of representation as liable to such insuperable objections, etc., etc.

GEN. C. C. PINCKNEY (of South Carolina) considered the fisheries and the western frontier as more burdensome to the United States than the slaves. He thought this could be demonstrated if the occasion were a proper one.

On the question on the motion to insert "free" before "inhabitants" it was disagreed to, New Jersey alone voting in the affirmative.

On Tuesday, August 21:

MR. LUTHER MARTIN (of Maryland) proposed to vary Article VII, Section 4, so as to allow a prohibition or tax on the importation of slaves. In the first place, as five slaves are to be counted as three freemen in the apportionment of representatives, such a clause would leave an encouragement to this traffic. In the second place, slaves weakened one part of the Union, which the other parts were bound to protect. The privilege of importing was therefore unreasonable. And, in the third place, *it was inconsistent with the principles of the Revolution, and dishonorable to the American character, to have such a feature in the Constitution.*

MR. RUTLEDGE (of South Carolina) did not see how the importation of slaves could be encouraged by this section. He was not apprehensive of insurrections and would readily exempt the other States from the obligation to protect the Southern against them. *Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations, etc.*

MR. ELLSWORTH (of Connecticut) was for leaving the clause as it stands, etc.

MR. PINCKNEY.—South Carolina can never receive the plan if it prohibits the *Slave-Trade*. In every proposed extension of the powers of Congress that State expressly and watchfully excepted that of meddling with the importation of negroes. If the States should be all left at liberty on this subject, South Carolina may, perhaps by degrees, do of herself what is wished, as Virginia and Maryland have already done.

In the debate of the following day—the consideration of Article VII, Section 4, being resumed—Colonel George Mason gave utterance to the following sentiments:

This infernal traffic originated in the avarice of British merchants. The British Government has constantly checked the attempts of Virginia to put a stop to it. The present question concerned not the importing of slaves alone, but the whole Union. The evil of having slaves was experienced during the late war. Had slaves been treated as they might have been by the enemy, they would have proved dangerous instruments

didly that he did not think South Carolina would stop her importations of slaves in any short time, but only stop them occasionally as she now does. He moved to commit the clause that slaves might be made liable to an equal tax with other imports which he thought right and which would remove one difficulty that had been started.

MR. RUTLEDGE seconded the motion of General Pinckney.

MR. GOUVERNEUR MORRIS wished the whole subject to be committed, including the clause relating to tax on exports and the navigation act. These things may form a bargain among the Northern and Southern States.

MR. BUTLER (of South Carolina) declared that he would never agree to the power of taxing exports.

MR. SHERMAN said it was better to let the Southern States import slaves than to part with them if they made that a *sin, quâ non*.

On the question for committing the remaining part of Sections 4 and 5, of Article VII, the vote was 7 in the affirmative; 3 in the negative; Massachusetts absent.

Upon slave representation James Madison had this to say in "The Federalist."

It were doubtless to be wished that the power of prohibiting the importation of slaves had not been postponed until the year 1808, or rather, that it had been suffered to have immediate operation. But it is not difficult to account either for this restriction on the general government or for the manner in which the whole clause is expressed. It ought to be considered as a great point gained in favor of humanity that a period of twenty years may terminate forever within these States a traffic which has so long and so loudly upbraided the barbarism of modern policy; that within that period it will receive a considerable discouragement from the Federal Government and may be totally abolished by the concurrence of the few States which continue the unnatural traffic in the prohibitory example which is given by so large a majority of the Union. Happy would it be for the unfortunate Africans if an equal prospect lay before them of being redeemed from the oppression of their European brethren.

We subscribe to the doctrine, *might one of our Southern brethren observe*, that representation relates more immediately to persons, and taxation more immediately to property; and we join in the application of this distinction to the case of

in their hands. But their folly dealt by the slaves as it did by the Tories. . . . Maryland and Virginia, he said, had already prohibited the importation of slaves. North Carolina had done the same in substance. All this would be vain if South Carolina and Georgia be at liberty to import. The Western people are already calling for slaves for their new lands, and will fill that country with slaves if they can get through South Carolina and Georgia. Slavery discourages the arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a country. *As nations can not be punished in the next world, they must be in this. By an inevitable chain of causes and effects Providence punishes national sins by national calamities.* . . . He held it essential in every point of view that the general government should have power to prevent the increase of slavery.

GENERAL PINCKNEY declared it to be his firm conviction that if himself and all his colleagues were to sign the Constitution and use their personal influence it would be of no avail toward obtaining the consent of their constituents. South Carolina and Georgia can not do without slaves. . . . He contended that the importation of slaves would be for the interest of the whole Union. The more slaves, the more products to employ the carrying trade; the more consumption also, and the more of this, the more revenue for the common treasury. He admitted it to be reasonable that slaves should be duties like other imports, *but should consider a rejection of the clause as an exclusion of South Carolina from the Union.*

MR. BALDWIN has similar conceptions in the case of Georgia.

MR. WILSON (of Pennsylvania) observed that if South Carolina and Georgia were thus disposed to get rid of the importation of slaves in a short time, as had been suggested, they would never refuse to unite because the importation might be prohibited. As the section now stands, all articles imported are to be taxed. Slaves alone are exempt. This is, in fact, a bounty on that article.

MR. DICKINSON (of Delaware) expressed his sentiments as of a similar character. And MESSRS. KING and LANGDON (of New Hampshire) were also in favor of giving the power to the general government.

GENERAL PINCKNEY thought himself bound to declare can-

our slaves. But we deny the fact that slaves are considered merely as property, and in no respect whatever as persons. The true state of the case is that they partake of both these qualities, being considered by our laws in some respects as persons, and in other respects as property. In being compelled to labor, not merely for himself, but for a master—in being vendible by one master to another master, and being subject, at all times, to being restrained in his liberty and chastised in his body by the capricious will of his owner, the slave may appear to be degraded from the human rank and classed with that of the irrational animals which fall under the legal denomination of property. In being protected, on the other hand, in his life and in his limbs against the violence of all others, even the master of his labor and his liberty, and in being punished himself for all violence committed against others, the slave is no less regarded by the law as a member of society, not as a part of the irrational creation—as a moral person, not a mere object of property. The Federal Constitution, therefore, decides *with great propriety* on the case of our slaves when it views them in the mixed character of persons and property. This is, in fact, their true character. It is the character bestowed on them by the laws under which they live, and it will not be disputed that these are the proper criterion, because it is only under the pretext that the laws have transformed negroes into subjects of property that a place is denied to them in the computation of numbers, and *it is admitted that if the laws were to restore the rights which have been taken away the negroes would no longer be refused an equal share of representation with the other inhabitants.*

On August 29 Mr. Butler of South Carolina moved to insert after Article XV:

"If any person bound to service or labor in any of the United States shall escape into another State, he or she shall not be discharged from such service or labor in consequence of any regulations existing in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor."

This, says Madison in his "Papers," was after some verbal modification agreed to, no one opposing.

In the debate in the North Carolina ratification convention in 1788:

Mr. IREDELL begged leave to explain the reason of this clause (last clause, Section 2, Article IV). In some of the Northern States they have emancipated all their *slaves*. If any of our *slaves*, said he, go there and remain there a certain time, they would, by the present laws, be entitled to their freedom so that their masters could not get them again. This would be extremely prejudicial to the inhabitants of the Southern States, and to prevent it this clause is inserted in the Constitution. Though the word *slave* is not mentioned, this is the meaning of it. The Northern delegates, owing to their peculiar scruples on the subject of Slavery, did not choose the word *slave* to be mentioned.

General Chas. C. Pinckney said in the South Carolina ratification convention in 1788:

"I am of the same opinion now as I was two years ago that while there remained one acre of swamp land uncleared in South Carolina I would raise my voice against restricting the importation of negroes. . . . The Middle States and Virginia were for an immediate and total prohibition. We endeavored to obviate the objections which were urged in the best manner we could, and assigned reasons for our insisting on the importation, which there is no occasion to repeat, as they must occur to every gentleman in the House. A committee of the States was appointed in order to accommodate this matter and after a great deal of difficulty it was settled on the footing of the Constitution. By this settlement we have secured an unlimited importation of negroes for twenty years. Nor is it declared when that importation shall be stopped; it may be continued. We have a right to recover our slaves in whatever part of America they may take refuge. In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. *We would have made better if we could, but on the whole, I do not think them bad.*"

We should here observe that amendments were proposed and even adopted until the day when the Constitution was signed. It will be remembered that in the arrangement with respect to the ratio of representation in the House there was to be one representative for every forty thousand inhabitants. This remained so until the last day of the session, when General Washington rose

and said, in effect, that, "though he was sensible of the impropriety of the chairman's intermingling in the debates, yet he could not help observing that the small number which constituted the representative body appeared to him a defect in the plan—that it would better suit his ideas, and he believed it would be more agreeable to the people, if the number should be increased, and that the ratio should be one for every *thirty thousand*." The motion for reducing the ratio to this number was immediately put and almost unanimously carried. This is one instance of the influence of that great man in this assembly; and there can be no doubt his influence was also felt in other instances, though perhaps not in so direct a manner during the long deliberations of that body.

On July 23 the nineteen resolutions of the Virginia plan, with the amendments, were referred to a "committee of detail" to draft a Constitution in accordance with them. The plans of Pinckney and Paterson were also referred to the committee. The members composing the committees were elected by ballot: Rutledge, Randolph, Gorham, Ellsworth, and Wilson.

On the 6th of August the committee reported the draft it had agreed upon. (For the text of this, see Elliott's "Debates on the Federal Constitution," Vol. I, page 224.) This was debated upon until September 8, when a committee of five was chosen by ballot "to revise the style of and arrange the articles agreed to by the House." The members chosen were Johnson, Hamilton, Gouverneur Morris, Madison, and King.

On the 12th of September the committee submitted its draft, together with the draft of a letter to Congress. Both were approved, and the Constitution was ordered to be printed and copies furnished the members. This was done on the following day.

On September 17 the convention formally agreed to the Constitution, all the States voting "Ay," and ordered it to be transmitted to Congress to be laid before State conventions elected for the purpose of considering the ratification of the instrument, and that so soon as it was ratified by a constitutional majority Congress should

take measures for the election of a President, and fix the time for beginning proceedings under it. The Journal of the Convention and other papers were deposited with its president (Washington) to be retained by him subject to the order of Congress if this body should be formed under the Constitution.

The members proceeded to sign the Constitution, and the convention then dissolved itself by an adjournment *sine die*.

The following is the text of the letter to Congress accompanying the Constitution:

THE LETTER TO CONGRESS

We have now the honor to submit to the consideration of the United States in Congress assembled that Constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired that the power of making war, peace, and treaties; that of levying money and regulating commerce; and the correspondent executive and judicial authorities shall be fully and effectually vested in the general government of the Union. But the impropriety of delegating such extensive trust to one body of men is evident. Thence results the necessity of a different organization. It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved. And on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits and particular interests.

In all our deliberations on this subject we kept steadily in our view that which appeared to us the greatest interest of every true American—the consolidation of the Union—in which are involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the convention to be less rigid in points of inferior magnitude than might have been otherwise expected. And thus the Constitution which

we now present is the result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every State is not perhaps to be expected. But each will doubtless consider that, had her interest alone been consulted, the consequences might have been particularly disagreeable and injurious to others. That it is liable to as few exceptions as could reasonably have been expected we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

funds, burdened with debt, and without the power or means of discharging it, despised abroad, and threatened with anarchy at home, that small majorities were at last induced to yield their assent, trusting to future amendments.

THE MASSACHUSETTS CONVENTION

In the convention of Massachusetts, which met in January, 1788, were men of the first talents who exerted their utmost energies in favor of the adoption of the Constitution. They encountered strong opposition from a class who had small personal interests at stake, and among these persons were eighteen or twenty who had actually been in Shay's army.

Fisher Ames delivered the most powerful of the speeches in favor of ratification. In the conclusion he said:

UNION, THE DYKE OF THE NATION

FISHER AMES

Shall we put every thing to hazard by rejecting this Constitution? Who is there that really loves liberty that will not tremble for its safety if the Federal Government should be dissolved? Can liberty be safe without government?

The Union is essential to our being as a nation. The pillars that prop it are crumbling to powder. The Union is the vital sap that nourishes the tree. If we reject the Constitution, to use the language of the country, we girdle the tree, its leaves will wither, its branches drop off, and the moldering trunk will be torn down by the tempest. What security has this single State against foreign enemies? Could we defend the mast country which the British so much desire? Can we protect our fisheries or secure by treaties a sale for the produce of our lands in foreign markets? Is there no loss, no danger, by delay? In spite of our negligence and perverseness, are we to enjoy at all times the privilege of forming a Constitution which no other nation has enjoyed at all? We approve our own form of government, and seem to think ourselves in safety under its protection. We talk as if there was no danger of deciding wrong. But when the inundation comes, shall we stand on dry land? The State government is a beautiful structure. It is situated, however, on the naked beach. The Union

CHAPTER XIV

NATION OR CONFEDERATION?

[DEBATES IN STATE LEGISLATURES ON RATIFICATION OF THE CONSTITUTION]

Congress Submits the Constitution to the States for Ratification—Debate in the Massachusetts Convention: Speech of Fisher Ames: "Union, the Dyke of the Nation"—The Virginia Convention: Great Debate on "Consolidation or Confederation?" between Edmund Pendleton, Edmund Randolph, James Madison, George Wythe, John Marshall, *et al.*, Advocating Ratification, and Patrick Henry, George Mason, William Grayson, *et al.*, Opposing It—Debates in the New York Convention.

ON September 20, 1787, the Constitution was taken up by Congress, then sitting in City Hall, New York, and debated for eight days. The chief opposition to the Constitution was that it consolidated too much power in the general Government, thus endangering the independence of the States. Congress finally ordered, on September 23, that the "report (*i. e.*, the Constitution) of the convention lately assembled in Philadelphia" be "transmitted to the several legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof." In pursuance of this act the State legislatures called such conventions, which met in the course of the next three years.

Ratification was adopted unanimously by Georgia, New Jersey, and Delaware, and by large majorities in Pennsylvania, Connecticut, Maryland, and South Carolina. The State of Rhode Island for some time declined calling a convention, and it was for a while doubtful whether the other States would assent to it without previous amendments. Such, however, was the situation of the United States, without government, without

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GREAT AMERICAN DEBATES

is the dyke to fence out the flood. That dyke is broken and decayed, and if we do not repair it when the next spring tide comes we shall be buried in one common destruction.

The question was taken on the adoption of the Constitution on February 6, 1788, and carried by a small majority.

THE VIRGINIA CONVENTION

The convention of Virginia met on the 2nd of June, and the talented men of that large State were arranged on opposite sides. Patrick Henry, George Mason, William Grayson, James Monroe, and others were in the ranks of opposition, and they were met by Edmund Pendleton, Edmund Randolph, James Madison, John Marshall, Chancellor Wythe, and others. The debates as given to the public, though no doubt imperfect, exhibit a display of eloquence and talents, certainly at that time unequalled in this country.

The debates, though generally courteous, were often animated, sometimes violent.

The radical difference between the parties in Virginia and in other States respecting the new system was that it departed from the principles of a confederacy and constituted a consolidated national government vested with extensive powers operating, not upon the States, but upon individuals, and that the people themselves, on whom it was to operate, were not secured against the improper exercise of those powers by a bill of rights. The loss of sovereignty and of influence was felt by the large States, and led them to a more particular examination of the various powers transferred to the different departments of the new Government.

CONSOLIDATION OR CONFEDERATION?

DEBATE IN THE VIRGINIA CONVENTION

All the talents and eloquence of Patrick Henry were exerted against a system which he deprecated. He commenced by inquiring why the Confederation had been

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abandoned, and what authority the general convention had to make a consolidated government:

I would make this inquiry of those worthy characters who composed a part of the late federal convention. I am sure they were fully impressed with the necessity of forming a great consolidated government instead of a confederation. That this is a consolidated government is demonstrably clear, and the danger of such a government is to my mind very striking. I have the highest veneration for those gentlemen, but, sir, give me leave to demand what right had they to say *we, the people*? My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask who authorized them to speak the language of *we, the people*, instead of *we, the States*? States are the characteristics and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated government of the people of all the States. I have the highest respect for those gentlemen who formed the convention, and were not some of them here, I would express some testimonial of esteem for them. America had, on a former occasion, put the utmost confidence in them—a confidence which was well placed, and I am sure, sir, I could give up any thing to them; I would cheerfully confide in them as my representatives. But, sir! on this great occasion I would demand the cause of their conduct. Even from that illustrious man who saved us by his valor I would have a reason for his conduct—that liberty which he has given us by his valor tells me to ask this reason—and sure I am, were he here, he would give us the information. The people gave them no power to use their name. That they exceeded their power is perfectly clear. It is not mere curiosity that actuates me—I wish to hear the real actual existing danger which should lead us to take these steps so dangerous in my conception. Disorders have arisen in other parts of America, but here, sir, no dangers, no insurrection or tumult has happened—everything has been calm and tranquil. But, notwithstanding this, we are wandering on the great ocean of human affairs. I see no landmark to guide us. We are running we know not whither. Difference of opinion has gone to a degree of inflammatory resentment in some parts of the country which has been occasioned by this perilous innovation. The federal convention ought to have amended the old system—for this purpose they were solely delegated; the object of their mission extended to no other consideration.

To this direct inquiry Governor Randolph replied by saying:

The members of the general convention were particularly deputed to ameliorate the Confederation. On a thorough contemplation of the subject they found it impossible to amend that system; what was to be done? The dangers of America, which will be shown at another time by particular enumeration, suggested the expedient of forming a *new plan*; the Confederation has done a great deal for us, we will allow, but it was the danger of a powerful enemy, and the spirit of America, sir, and not the energy of that system, that carried us through that perilous war. For what were its best arms? The greatest exertions were made when the danger was most imminent. This system was not signed till March, 1781, Maryland having not acceded to it before, yet the military achievements and other exertions of America previous to that period were as brilliant, as effectual and successful as they could have been under the most energetic government. This clearly shows that our perilous situation was the cement of our Union.

How different the scene when this peril vanished and peace was restored! The demands of Congress were treated with neglect. One State complained that another had not paid its quota as well as itself. Public credit gone! For I believe, were it not for the private credit of individuals, we should have been ruined long before that time. Commerce languishing, produce falling in value, and justice trampled under foot. We became contemptible in the eyes of all foreign nations; they discarded us as little wanton boys who had played for liberty, but who had not sufficient solidity or wisdom to secure it on a permanent basis, and were therefore unworthy of their regard. It was found that Congress could not even enforce the observance of their own treaties. That treaty under which we enjoy our present tranquillity was disregarded. Making no difference between the justice of paying debts due to people here, and that of paying those due to people on the other side of the Atlantic, I wished to see the treaty complied with by the payment of the British debts, but have not been able to know why it has been neglected. What was the reply to the demands and requisitions of Congress? You are too contemptible; we will despise and disregard you. After meeting in convention the deputies from the States communicated their information to one another. On a review of our critical situation, and of the impossibility of introducing any degree of improvement into the old system, what ought they to have done?

To these arguments John Marshall, afterwards to be the Chief-Justice for many years of the Supreme Court, replied, saying that, as the previous consent of both parties was necessary in bringing the case before the court, each would be bound in honor as well as in law to accept the decision of the tribunal. Accordingly the court would be a means of preventing disputes, instead of aggravating them, between the States and foreign nations. He continued:

The exclusion of trial by jury in such a case, says the honorable gentleman (Henry), would prostrate our rights. Does the word court mean only the judges? Does not the determination of a jury necessarily lead to the judgment of the court? Is there anything here which gives the judges exclusive jurisdiction of matters of fact? What is the object of a jury trial? To inform the court of the facts. When a court has cognizance of facts, does it not follow that they can make inquiry by a jury? It is impossible to be otherwise. I hope that in this country, where impartiality is so much admired, the laws will direct facts to be ascertained by a jury. But, says the honorable gentleman, the juries in the ten miles square will be mere tools of parties, with which he would not trust his person or property, which, he says, he would rather leave to the court. Because the Government may have a district ten miles square, will no man stay there but the tools and officers of the Government? Will nobody else be found there? Is it so in any other part of the world where a government has legislative power? Are there none but officers and tools of the government of Virginia in Richmond? Will there not be independent merchants and respectable gentlemen of fortune within the ten miles square? Will there not be worthy farmers and mechanics? Will not a good jury be found there as well as anywhere else? Will the officers of the Government become improper to be on a jury? What is it to the Government, whether this man or that man succeeds? It is all one thing. Does the Constitution say that juries shall consist of officers, or that the Supreme Court shall be held in the ten miles square? It was acknowledged by the honorable member that it was secure in England. What makes it secure there? Is it their constitution? What part of their constitution is there that the Parliament cannot change? As the preservation of this right is in the hands of Parliament, and it has ever been held sacred by them, will the Government of America be less honest than

Would it not have been treason to return without proposing some scheme to relieve their distressed country?

Mr. Henry, in renewing the discussion, declared the new system produced "a revolution as radical as that which separated us from Great Britain."

It is fully as radical if in this transition our rights and privileges are endangered and the sovereignty of the States be relinquished; and cannot we plainly see that this is actually the case? The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, so loudly talked of by some and inconsiderately by others, are rendered insecure, if not lost, by this change. Is this tame relinquishment of rights worthy of freemen? Is it worthy of that manly fortitude that ought to characterize republicans? It is said that eight States have adopted this plan. I declare that if twelve States and a half had adopted it, I would with manly firmness and in spite of an erring world reject it.

Should the system go into operation, Mr. Henry asked, "what will the States have to do? Take care of the *poor*, repair and make *highways*, erect *bridges*, and so on and so on. Abolish the State legislatures at once. For what purposes should they be returned?"

Mr. Henry in particular objected to the jurisdiction of the Supreme Court in controversies between a State and a foreign government. Would the foreign government in such a case, he asked, be bound by the decision? And would not the American State be barred from its claim if the federal judiciary thought it unjust? The exclusion of trial by jury in such cases would be destructive of the rights of the people of the State affected. And, if there is not to be this exclusion, would not juries empaneled in the proposed federal district, a territory only ten miles square, be mere tools of parties, especially since the right of challenging such juries is not secured in the Constitution. For his part, said Mr. Henry, sooner than trust his person or property to the mercy of such creatures, he would rather leave it to the court, unjust to his rights as a citizen of Virginia as this would be.

that of Great Britain? Here a restriction is to be found. The jury is not to be brought out of the State. There is no such restriction in that government, for the laws of Parliament decide everything respecting it. Yet gentlemen tell us that there is safety there, and nothing here but danger. It seems to me that the laws of the United States will generally secure trials by a jury of the vicinage, or in such manner as will be most safe and convenient for the people.

But it seems that the right of challenging the jurors is not secured in this Constitution. Is this done by our own Constitution, or by any provision of the English Government? Is it done by their Magna Charta or Bill of Rights? This privilege is founded on their laws. If so, why should it be objected to the American Constitution that it is not inserted in it? If we are secure in Virginia without mentioning it in our Constitution, why should not this security be found in the federal court?

A majority of the Virginia convention were in favor of very material amendments of the nature of a "Bill of Rights," and the question finally was whether the Constitution should be adopted previously or subsequently to such amendments.

After a debate of about twenty days, Mr. Wythe moved that the Constitution be ratified, with a preamble declaring that the powers granted by it were the gift of the people, and that every power not granted remained with them—that no right, therefore, of any denomination could be canceled, abridged, restrained, or modified by Congress, or any officer of the United States, except in those instances in which power was given by the Constitution for those purposes. Among other essential rights, liberty of conscience and of the press were mentioned, and it was declared that any imperfections which might exist in the Constitution ought rather to be examined in the mode therein prescribed for obtaining amendments than to bring the union in danger by a delay, with a hope of obtaining previous amendments.

On this motion the debate was renewed with increased zeal and animation. Mr. Henry, in opposition to it, observed:

With respect to subsequent amendments proposed by the worthy member, I am distressed when I hear the expression. It is a new one altogether, and such as stands against every idea of fortitude and manliness in the States or any one else. Evils admitted in order to be removed *subsequently*, and tyranny submitted to in order to be excluded by a *subsequent* alteration, are things totally new to me. But I am sure he meant nothing but to amuse the committee. I know his candor. His proposal is an idea dreadful to me. I ask: does experience warrant such a thing from the beginning of the world to this day? Do you enter into a compact of government first and afterwards settle the terms of the government? It is admitted by every one that this is a compact. Although the Confederation be lost, it is a compact, constitution, or something of that nature. I confess I never heard of such an idea before. It is most abhorrent to my mind. You endanger the tranquillity of your country, you stab its repose if you accept this government unaltered. . . .

I cannot conclude without saying that I shall have nothing to do with it if subsequent amendments be determined on. Oppressions will be carried on as radically by the majority when adjustments and accommodations will be held up. I say I conceive it my duty, if this government is adopted before it is amended, to go home. I shall act as I think my duty requires. Every other gentleman will do the same. Previous amendments, in my opinion, are necessary to procure peace and tranquillity. I fear, if they be not agreed to, every movement and operation of government will cease, and how long that baneful thing, civil discord, will stay from this country God only knows.

The language of Mr. Henry at the close of this debate and just before the final question was taken was dispassionate and patriotic.

If I shall be in the minority I shall have those painful sensations which arise from a conviction of being overpowered in a good cause. Yet I will be a peaceful citizen! My head, my hand, and my heart shall be at liberty to retrieve the loss of liberty and remove the defects of that system in a constitutional way. I wish not to go to violence, but will wait with hopes that the spirit which predominated in the Revolution is not yet gone, nor the cause of those who are attached to the Revolution lost. I shall therefore patiently wait in expectation of seeing that Government changed so as to be compatible with the safety, liberty, and happiness of the people.

In my opinion the idea of subsequent amendments is preposterous—they are words without meaning. The little States will not agree to an alteration. When they find themselves on an equal footing with the other States in the Senate, and all power vested in them, the executive mixed with the legislative, they will never assent. Why are such extensive powers given to the Senate? Because the little States gained their point. In every light I consider subsequent amendments as unwise and impolitic.

Speaking of the advantages Virginia was to derive from the new system, Mr. Grayson asked:

Has Virginia any gain from her riches and commerce? What does she get in return? I can see what she gives up, which is immense. The little States gain in proportion as we lose. Every disproportion is against us. If the effects of such a contrariety of interests be happy, it must be extraordinary and wonderful. From the very nature of the paper, one part whose interest is different from the other is to govern it. What will be our situation? The Northern States are carrying States. We are considered as productive States. They will constantly carry for us. Are manufacturers favorable to us? If they reciprocate the act of Charles II and say that no produce of America shall be carried in any foreign bottom, what will be the consequence? This—that all the produce of the Southern States will be carried by the Northern States on their own terms, which must be very high.

The reply of Mr. Madison to the first part of this speech produced a powerful effect in favor of Mr. Wythe's motion. He saw that the fate of the system he had been so instrumental in forming depended on the question then to be decided. He was too well acquainted with the difficulties in the general convention to believe that the States could ever unite in the various amendments which would be proposed. He said:

Nothing has excited more admiration in the world than the manner in which free governments have been established in America. For it was the first instance, from the creation of the world to the American Revolution, that free inhabitants have been seen deliberating on a form of government and selecting such of their citizens as possessed their confidence to determine upon and give effect to it. But why has this

The object of some opponents was that the States of Virginia, North Carolina, and New York should reject the system until their amendments were agreed to by the other States. This it was supposed would secure the adoption of such amendments as they required. This, on the other hand, was deemed too hazardous an experiment, and it was urged that it would place the Union itself in the greatest danger. To remarks of this kind Mr. Grayson replied:

The dangers of disunion are painted in strong colors. How is the fact? It is this: that if Virginia thinks proper to insist on previous amendments, joined by New York and North Carolina, she can procure what amendments she pleases. What is the geographical position of those States? New York commands the ocean. Virginia and North Carolina join the Spanish dominions. What would be the situation then of the other States? They would be topographically separated, though politically united with one another. There would be no communication between the center and the component parts. While these States were thus separated, of what advantage would commercial regulations be to them? Yet will gentlemen pretend to say that we must adopt first and then beg amendments? I see no reason in it. We undervalue our own importance. Consider the vast consequence of Virginia and North Carolina. What kind of connection would the rest of the States form? They would be carrying States without anything to carry. They would have no communication with the other Southern States. I therefore insist that if you are not satisfied with the paper as it stands it is as clear to me as that the sun shines that, by joining those two States, you may command such amendments as you think necessary for the happiness of the people. The late convention were not empowered totally to alter the present Confederation. The idea was to amend. If they have laid before us a thing quite different, we are not bound to accept it. There is nothing dictatorial in refusing it. We wish to remove the spirit of party. In all parts of the world there is a reciprocity in contracts and compacts. If one make a proposition to another, is he bound to receive it?

Six or seven States have agreed to it. As it is not their interest to stand by themselves, will they not with open arms receive us? Tobacco will always make our peace with them. I hope then that the gentleman will find on reconsideration that we are not at all in that dangerous situation he represented.

excited so much wonder and applause? Because it is of so much magnitude, and because it is liable to be frustrated by so many accidents. If it has excited so much wonder that the United States have, in the middle of war and confusion, formed free systems of government, how much more astonishment and admiration will be excited should they be able peaceably, freely, and satisfactorily to establish one general government when there is such a diversity of opinions and interests, when not cemented or stimulated by any common danger? How vast must be the difficulty of concentrating in one government the interests, and conciliating the opinions of so many different heterogeneous bodies?

How have the confederacies of ancient and modern times been formed? As far as ancient history describes the former to us, they were brought about by the wisdom of some eminent sage. How was the imperfect union of the Swiss Cantons formed? By danger. How was the confederacy of the United Netherlands formed? By the same. They were surrounded by dangers. By these and one influential character, they were stimulated to unite. How was the Germanic system formed? By danger in some degree, but principally by the overruling influence of individuals. When we consider this Government, we ought to make great allowances. We must calculate the impossibility that every State should be gratified in its wishes, and much less that every individual should receive this gratification. It has never been denied by the friends of the paper on the table that it has its defects. But they do not think that it contains any real danger. They conceive that they will in all probability be removed when experience will show it to be necessary. I beg that gentlemen deliberating on this subject consider the alternative. Either nine States will ratify it or they will not. If nine States adopt it, can it be reasonably presumed or required that nine States, having freely and fully considered the subject and come to an affirmative decision, will, upon the demand of a single State, agree that they acted wrong and could not see its defects—tread back the steps which they have taken and come forward and reduce it to uncertainty whether a general system shall be adopted or not? Virginia has always heretofore spoken the language of respect to the other States, and she has always been attended to. Will it be that language to call on a majority of the States to acknowledge that they have done wrong? Is it the language of confidence to say that we do not believe that amendments for the preservation of the common liberty and general interest of

the States will be consented to by them? This is neither the language of confidence nor respect. Virginia, when she speaks respectfully, will be as much attended to as she has hitherto been when speaking this language. It is a most awful thing that depends on our decision—no less than whether the thirteen States shall unite freely, peaceably, and unanimously for the security of their common happiness and liberty, or whether everything is to be put in confusion and disorder! Are we to embark in this dangerous enterprise, uniting various opinions to contrary interests, with the vain hopes of coming to an amicable concurrence?

It is worthy of our consideration that those who prepared the paper on the table found difficulties not to be described in its formation—mutual deference and concession were absolutely necessary. Had they been inflexibly tenacious of their individual opinions they would never have concurred. Under what circumstances was it formed? When no party was formed, or particular proposition made, and men's minds were calm and dispassionate. Yet under these circumstances it was difficult, extremely difficult, to agree to any general system.

Suppose eight States only ratify it, and Virginia proposes certain alterations as the previous condition of her accession. If they should be disposed to accede to her proposition, which is the most favorable conclusion, the difficulty attending it would be immense. Every State which has decided it must take up the subject again. They must not only have the mortification of acknowledging that they have done wrong, but the difficulty of having a reconsideration of it among the people, and appointing new conventions to deliberate upon it. They must attend to all the amendments, which may be dictated by as great a diversity of political opinions as there are local attachments. When brought together in one assembly they must go through and accede to every one of the amendments. The gentlemen who within this House have thought proper to propose previous amendments have brought no less than forty amendments—a bill of rights which contains twenty amendments and twenty other alterations, some of which are improper and inadmissible. Will not every State think herself equally entitled to propose as many amendments? And suppose them to be contradictory. I leave it to this convention, whether it be probable that they can agree to anything but the plan on the table, or whether greater difficulties will not be encountered than were experienced in the progress of the formation of this Constitution.

should neglect, refuse or be disabled by invasion or rebellion to prescribe the same; that the clauses which declare that Congress should not exercise certain powers be not interpreted to extend their powers, but be construed as making exceptions to the specified powers, or inserted merely for greater caution; that the laws ascertaining the compensations of the members be postponed in their operation until after the election of Representatives immediately succeeding the passage of the same; that some tribunal other than the Senate be provided to try impeachment of Senators.

NEW YORK CONVENTION

A majority of the convention of New York, which met on June 19, were strongly opposed to the new system of government. The most important point discussed was the proportion of representation fixed by the Constitution for the popular House. This divided the convention into the two camps of those inclined toward a strong government, and those who feared the centralization of power in the hands of a comparatively few men of ability and political prestige.

As ten States had ratified the Constitution, and it must necessarily go into operation, no alternative was left New York but to unite or secede. By a small majority the system was adopted and amendments recommended. These amendments were more numerous as well as more radical than those of any other State.

The motion of Mr. Wythe prevailed by a majority of ten, 89 to 79. In the form of ratification, after stating that every power not granted remained with the people, the convention added:

With these impressions, with a solemn appeal to the searcher of hearts for the purity of our intentions, and under the conviction that whatsoever imperfections may exist in the Constitution ought rather to be examined in the mode prescribed therein than to bring the Union into danger by a delay with a hope of obtaining amendments previous to the ratification.

The convention at the same time agreed upon a bill of rights, consisting of twenty articles, and the same number of amendments to the body of the Constitution. The most important of the latter were: that Congress should not lay direct taxes until the States had refused them; that members of the Senate and House should be incapable of holding any civil office under the authority of the United States; that no commercial treaty should be ratified without the concurrence of two-thirds of the whole number of the members of the Senate, and that no treaty ceding or suspending the territorial rights or claims of the United States, or any of them, or their rights to fishing in the American seas, or navigating the American rivers, should be but in cases of the most extreme necessity, nor should any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses; that no navigation law or law regulating commerce should be passed without the consent of two-thirds of the members present in both Houses; that no person be capable of being President of the United States for more than eight years in any term of sixteen years; that the judicial power of the United States should extend to no case where the cause of action originated before the ratification of the Constitution except in disputes between persons claiming lands under grants of different States and suits for debts due to the United States; that Congress should not alter, modify, or interfere in the times, places, or manner of holding elections for Senators or Representatives, or either of them, except when the legislature of any State

CHAPTER XV

DEFENCE OF THE CONSTITUTION

[LETTERS IN THE PRESS]

Letters of "Fabius" (John Dickinson of Pennsylvania)—"The Federalist" Papers, by Alexander Hamilton [N. Y.], James Madison [Va.], and John Jay [N. Y.]: Introduction by Hamilton; Digest of the Arguments; Conclusion, by Hamilton—Adoption of the Constitution.

MANY attacks on the proposed Constitution were made in the newspapers. To these John Dickinson replied in his "Letters of Fabius," and Alexander Hamilton, James Madison, and John Jay in articles over the common signature of Publius, which were collected and published under the title of "The Federalist." Dickinson wrote for the common people, and Hamilton, Madison, and Jay for persons of superior education.

The letters of "Fabius" were published early in 1788, while ratification of the Constitution was in doubt, in order to "simplify the subject so as to facilitate inquiries" regarding it and remove current objections to it. The substance of the papers is here presented in dialogue form, the language of the original being preserved so far as practicable.

THE LETTERS OF FABIUS

JOHN DICKINSON

Objection. The proposed system has such inherent vices as must necessarily produce a bad administration, and at length the oppression of a monarchy and aristocracy in the federal offices.

Reply. The power of the people, pervading the proposed system by frequent elections, together with the strong con-

federation of the States, forms an adequate security against every danger that has been apprehended.

The proof of the salutary, purifying, and preserving qualities of this popular rule removes all the particular objections to the Constitution as menacing liberty by unnecessary taxation, standing armies, the abolishment of trial by jury in federal judicial procedure, and limitations of freedom of the press and freedom of commerce, etc. The question then is: not what may be done, when the Government shall be turned into a tyranny, but *how* the Government can be so turned.

Objection. The number of federal officers is too small.

Reply. If this is a fault it will be remedied in the natural course of the country's development by the unavoidable multiplication of offices. The Senate continues the present representation of the sovereignties of the States, and through State jealousy it will never renounce its powers, including representation. The House of Representatives will grow only with the country's growth and corresponding legislative needs.

Objection. The federal officers hold their offices too long.

Reply. This cannot hold against the Representatives who are elected every two years. The Senators, from their smaller numbers, should serve a longer term, to balance, by their greater experience in legislation, the greater power of the Representatives (that of the purse).

Objection. The President will not be independent.

Reply. He is not chosen by the people, who have not the necessary information before them of the qualifications of men proposed for the office, nor by Congress, lest it should disturb the national councils, nor by any standing body whatever, for fear of undue influence, but by a specially appointed body of private citizens whose qualifications for such service are known by the people and who are uninfluenced by any other consideration than the worth of the men considered for the Presidency and Vice-Presidency.

Objection. The President may become a dictator.

Reply. Two-thirds of Congress may pass any law over his veto.

Objection. The Senate may become a dictator.

Reply. The terms of office of the Senators expire at different times, and the political complexion of the State legislatures which elect them will be constantly changing. Machiavel and Cæsar Borgia together could not form a conspiracy in such a Senate destructive to any but themselves and their accomplices.

Objection. The Constitution is not broad enough.

pared with these, what are a bill of rights or any characters drawn upon paper or parchment, those frail remembrances? Do we want to be reminded that the sun enlightens, warms, invigorates, and cheers? or how horrid it would be to have his rays intercepted by our being thrust for life into mines or dungeons? Liberty is the sun of society. Rights are the rays.

Objection. A very extensive territory cannot be ruled by a government of republican form.

Reply. It is true that extensive territory has in general been arbitrarily governed; and it is as true that a number of republics in such territory, loosely connected, must inevitably rot into despotism. But the proposed Constitution presents a government without a precedent, and therefore the historical argument does not apply to it. Where was there ever a confederacy which obliged by its direct authority every individual to contribute, when the public good necessarily required it, a just proportion of aid to the support of the commonwealth protecting him—without disturbing him in the discharge of the duties owing by him to the State of which he is an inhabitant, and at the same time was so amply, so anxiously provided for bringing the interests, and even the wishes of every sovereignty and of every person of the Union under all their various modifications and impressions into their full operation and efficacy in the national councils? The instance never existed. The conclusion ought not to be made.

The assertion has probably been suggested by reflections on the democracies of antiquity without making a proper distinction between them and the democracy of the United States.

In the democracies of antiquity the people assembled together and governed personally. This mode was incompatible with greatness of number and dispersion of habitation.

In the democracy of the United States the people act by their representatives. This improvement collects the will of millions upon points concerning their welfare with more advantage than the will of hundreds could be collected under the ancient form.

Representation which implies purity of election is a gentle remedy for every evil. It is at once a preservative against discontent and rashness on the part of the people and against negligence and usurpation on the part of their magistrates. All the curious contrivances and artful balances devised in ancient or modern times to supply its place have proved deficient. To mention no more, *Athens* and *Rome* perished for want of a representative government.

Reply. The people of the United States are trebly represented in it. The whole Government is interested in the safety of every part.

Objection. But the sovereign will of the Government must of consequence destroy the subordinate sovereignties of the several States.

Reply. If so, we must abandon the principle of all society for the subordinate sovereignties, or, in other words, the undelegated rights of the several States in a confederation stand upon the very same foundation with the undelegated rights of individuals in a society, the federated sovereign will being composed of the subordinated sovereign wills of the several confederated States.

Why should we be alarmed when we know that the rights to be delegated by the several States to the Confederation are simple, defined, and so limited to particular objects that they cannot possibly be applied by any construction to other objects without such a distortion of interpretation, and such a violation of propriety, as must offend every sound head and honest heart?

As some persons seem to think a bill of rights is the best security of rights, the sovereignties of the several States have this best security by the proposed Constitution, and more than this best security, for they are not barely declared to be rights, but are taken into it as component parts for their perpetual preservation—by themselves. In short, the government of each State is, and is to be, sovereign and supreme in all matters that relate to each state only. It is to be subordinate barely in those matters that relate to the whole; and it will be their own faults if the several States suffer the federal sovereignty to interfere in things of their respective jurisdictions. An instance of such interference with regard to any single State will be a dangerous precedent as to all, and therefore will be guarded against by all, as the trustees or servants of the several States will not dare, if they retain their senses, so to violate the independent sovereignty of their respective States, that justly darling object of American affections, to which they are responsible, besides being engaged by all the charities of life.

Trial by jury, and the dependence of taxation upon representation, those cornerstones of liberty, were not obtained by a bill of rights or any other records, and have not been and cannot be preserved by them. They and all other rights must be preserved, by soundness of sense and honesty of heart. Com-

There is another improvement equally deserving regard, and that is the varied representation of sovereignties and people in the Constitution now proposed.

It has been said that this representation was a mere compromise.

It was not a mere compromise. The equal representation of each State with equal suffrage in one branch of the legislature was an original substantive proposition made in the convention at Philadelphia in 1787, very soon after the draft offered by Virginia, to which last mentioned State United America is much indebted not only in other respects, but for her merit in the origination and prosecution of this momentous business.

The proposition was expressly made by the delegate who brought it forward upon this principle that a territory of such extent as that of United America could not be safely and advantageously governed, but by a combination of republics, each retaining all the rights of supreme sovereignty, excepting such as ought to be contributed to the Union; that for the securer preservation of these sovereignties they ought to be represented in a body by themselves and with equal suffrage, and that they would be annihilated if both branches of the legislature were to be formed of representatives of the people in proportion to the number of inhabitants in each State.¹

The principle lately mentioned appears to be well founded in reason. Why cannot a very extensive territory be ruled by a government of republican form? It is answered because its power must languish through distance of parts. Granted if it be not a "body by joints and bands having nourishment ministered and knit together." If it be such a body, the objection is removed. Instead of such a perfect body framed upon the principle that commands men to associate and societies to confederate; that which by communicating and extending happiness corresponds with the gracious intentions of our Maker towards us his creatures; what is proposed? Truly, that the natural legs and arms of this body should be cut off because they are too weak and their places supplied by stronger limbs of wood and metal.

America is, and will be, divided into several sovereign States, each possessing every power proper for governing within its own limits for its own purposes and also for acting as a member of the Union.

They will be civil and military stations conveniently planted throughout the empire with lively and regular com-

¹ See the plan of Charles Pinckney on page 290.

munications. A stroke, a touch upon any part, will be immediately felt by the whole. *Rome*, famed for imperial arts, had a glimpse of *this great truth*, and endeavored, as well as her hard-hearted policy would permit, to realize it in her colonies. They were miniatures of the capital, but wanted the *vital principle of sovereignty*, and were too small. They were melted down into or overwhelmed by the nations around them. Were they now existing, they might be called curious automata—something like to our *living originals*. *These* will bear a remarkable resemblance to the mild features of *patriarchal government*, in which each son ruled *his own household*, and in *other matters* the whole family was directed by the common ancestor.

Can any government be devised that will be more suited to citizens who wish for *equal freedom and common prosperity*, better calculated for preventing corruption of manners,¹ for advancing the improvements that ennobles or adorn life, or that can be more conformed to the *understanding*, to the *best affections*, to the *very nature of man*? *What harvests of happiness may grow from the seeds of liberty that are now sowing*? The cultivation will indeed demand continual attention, unceasing diligence, and frequent conflict with difficulties, but to object against the benefits offered to us by our Creator, by excepting to the terms annexed, is a crime to be equaled only by its folly.

Objection. The Constitution is admittedly not perfect. Before it is adopted it should be thoroughly discussed that proper alterations may be made.

Reply. As to alterations a little experience will cast more light upon the subject than a multitude of debates. Whatever qualities are possessed by those who object, they will have the candor to confess that they will be encountered by opponents, not in any respect inferior, and yet differing from them in judgment upon every point they have mentioned.

Such untired industry to serve their country did the delegates to the federal convention exert that they not only labored to form the best plan they could, but *provided for making at any time amendments on the authority of the people* without shaking the stability of the Government.

Thus by a gradual progress we may from time to time *introduce every improvement in our Constitution* that shall be found suitable to our situation.

¹ Education is the best institution for preventing corruption of manners; and progress of knowledge the most successful foe to religious and civil despotism. By wise legislators, instruction will be relied on vastly more than punishments. Of these the most effectual regulation will be their certainty, not severity.—J. D.

INTRODUCTION TO THE FEDERALIST

ALEXANDER HAMILTON

After full experience of the insufficiency of the existing Federal Government you are invited to deliberate upon a new Constitution for the United States of America. The subject speaks its own importance, comprehending in its consequences nothing less than the existence of the Union, the safety and welfare of the parts of which it is composed, the fate of an empire, in many respects the most interesting in the world. It has been frequently remarked that it seems to have been reserved to the people of this country to decide by their conduct and example the important question whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may, with propriety, be regarded as the period when that decision is to be made, and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind.

This idea, by adding the inducements of philanthropy to those of patriotism, will heighten the solicitude which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicious estimate of our true interests, uninfluenced by considerations foreign to the public good. But this is more ardently to be wished for than seriously to be expected. The plan offered to our deliberations affects too many particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects extraneous to its merits and of views, passions, and prejudices little favorable to the discovery of truth.

Among the most formidable of the obstacles which the new Constitution will have to encounter may readily be distinguished the obvious interest of a certain class of men in every State to resist all changes which may hazard a diminution of the power, emolument, and consequence of the offices they hold under the State establishments . . . and the perverted ambition of another class of men who will either hope to aggrandize themselves by the confusions of their country or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies than from its union under one government.

It is not, however, my design to dwell upon observations

THE FEDERALIST PAPERS

From October 27, 1787, to April 2, 1788, there appeared in *The Independent Journal* and other newspapers of New York a series of seventy-seven papers signed "Publius," explaining and justifying the Constitution. They created a great interest throughout the country, and were shortly afterwards collected and published in book form under title of "*The Federalist*," eight essays being added, making a total of eighty-five. They were written by Alexander Hamilton, James Madison and John Jay, to whose authorship have been assigned by the historians, respectively, 51, 29, and 5 of the essays. Hamilton discussed all phases of the subject, especially finance; Madison treated particularly of the relation between Federal and State powers; Jay dealt almost exclusively with foreign relations. Hamilton is credited with being the originator of the series, it being his intention to convert the State of New York, which was strongly inclined to reject the Constitution, to its adoption. Not only was this accomplished, but the papers had a profound influence in other States as well. In completeness of exposition, force of argument, and in literary style they far surpassed all other publications upon the subject, and remain to-day the most authoritative commentary on the Constitution, being recognized as such by the courts. Many editions of the work have been published, the most fully edited and indexed being that by Paul Leicester Ford (1898). A number of editions have been prepared as text-books on the Constitution, the handiest of these being by Henry Cabot Lodge (1888), the present Senator from Massachusetts. To these editions the reader of *GREAT DEBATES* who desires to pursue further the study of the Constitution is referred. Space is available here for only the introduction and conclusion by Hamilton, and a digest of the intervening argument.

In the "Introduction" Hamilton lays down the general principles upon which discussion should be conducted, and it therefore should be carefully perused by every one desiring to fit himself for public speaking.

of this nature. I am aware it would be desingenuous to resolve indiscriminately the oppression of any set of men into interested or ambitious views merely because their situations might subject them to suspicion. Candor will oblige us to admit that even such men may be actuated by upright intentions, and it cannot be doubted that much of the opposition which has already shown itself or that may hereafter make its appearance will spring from sources blameless at least, if not respectable . . . the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes which serve to give a false bias to the judgment that we, upon many occasions, see wise and good men on the wrong as well as on the right side of questions of the first magnitude to society. This circumstance, if duly attended to, would always furnish a lesson of moderation to those who are engaged in any controversy, however well persuaded of being in the right. And a further reason for caution in this respect might be drawn from the reflection that we are not always sure that those who advocate the truth are actuated by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives not more laudable than these are apt to operate as well upon those who support as upon those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more ill-judged than that intolerant spirit which has at all times characterized political parties. For in politics as in religion it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet, just as these sentiments must appear to candid men, we have already sufficient indications that it will happen in this, as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties we shall be led to conclude that they will mutually hope to evince the justness of their opinions and to increase the number of their converts by the loudness of their declamations and by the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatized as the offspring of a temper fond of power and hostile to the principles of liberty. An over-scrupulous jealousy of danger to the rights of the people which is more commonly the fault of the head than of the heart will be represented as mere pretence and artifice . . . the stale bait for popularity at

the expense of public good. It will be forgotten on the one hand that jealousy is the usual concomitant of violent love and that the noble enthusiasm of liberty is too apt to be infected with a spirit of narrow and illiberal distrust. On the other hand it will be equally forgotten that the vigor of government is essential to the security of liberty; that in the contemplation of a sound and well-informed judgment their interests can never be separated, and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people than under the forbidding appearance of zeal for the firmness and efficiency of government. History will teach us that the former has been found a much more certain road to the introduction of despotism than the latter, and that of those men who have overturned the liberties of republics the greatest number have begun their career by paying an obsequious court to the people, commencing demagogues and ending tyrants.

In the course of the preceding observations it has been my aim, fellow-citizens, to put you upon your guard against all attempts, from whatever quarter, to influence your decision in a matter of the utmost moment to your welfare by any impressions other than those which may result from the evidence of truth. You will no doubt at the same time have collected from the general scope of them that they proceed from a source not unfriendly to the new Constitution. Yes, my countrymen, I own to you that after having given it an attentive consideration I am clearly of opinion it is your interest to adopt it. I am convinced that this is the safest course for your liberty, your dignity, and your happiness. I affect not reserves which I do not feel. I will not amuse you with an appearance of deliberation when I have decided. I frankly acknowledge to you my convictions and I will freely lay before you the reasons on which they are founded. The consciousness of good intentions disdains ambiguity. I shall not however multiply professions on this head. My motives must remain in the depository of my own breast; my arguments will be open to all and may be judged of by all. They shall at least be offered in a spirit which will not disgrace the cause of truth.

I propose in a series of papers to discuss the following interesting particulars: *The utility of the Union to your political prosperity. The insufficiency of the present Confederation to preserve that Union. The necessity of a government at least equally energetic with the one proposed to the attainment of this object. The conformity of the proposed Constitution to*

the true principles of republican government. Its analogy to your own State constitution, and, lastly, The additional security which its adoption will afford to the preservation of that species of government to liberty and to property.

In the progress of this discussion I shall endeavor to give a satisfactory answer to all the objections which shall have made their appearance that may seem to have any claim to attention.

It may perhaps be thought superfluous to offer arguments to prove the utility of the Union, a point, no doubt, deeply engraved on the hearts of the great body of the people in every State, and one which, it may be imagined, has no adversaries. But the fact is that we already hear it whispered in the private circles of those who oppose the new Constitution that the thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole. This doctrine will, in all probability, be gradually propagated till it has votaries enough to countenance its open avowal. For nothing can be more evident to those who are able to take an enlarged view of the subject than the alternative of an adoption of the Constitution or a dismemberment of the Union. It may, therefore, be essential to examine particularly the advantages of that Union, the certain evils and the probable dangers to which every State will be exposed from its dissolution. This shall accordingly be done.

DIGEST OF THE ARGUMENTS OF THE FEDERALIST

HAMILTON, MADISON, AND JAY

I. *The Utility of the Union to the Political Prosperity of the People.*

The Union will promote prosperity in political relations with *foreign nations* by removing the usual just causes of war (which are violations of compacts through trade), and by improving the administration of government through the employment of better men than those employed in State governments, through uniform interpretation of the compacts and treaties, and by avoidance of local temptation to bad faith to which a single State may yield, and the local prejudices to which it may be subject. Nos. 1-5, J.¹

¹ This and the following similar annotations refer to the numbers of the papers and the authors; H = Hamilton, M = Madison, and J = Jay, as the papers are assigned in Jefferson's MS. notes.

Peace will be secured through the Union's greater ability to settle amicably a war (if it should arise) by reason of absence of local pride and prejudices, the greater strength of the States when united, the Union's removal beyond the influences of *unjust causes* (such as superior power of neighboring nations and jealousy of foreign powers from successful trade) and by preventing European alliances with our rival nations.

Prosperity will also be promoted by the Union's abolition of *interstate hostilities* arising from the jealousy and power of commercial competition and individual passions and influences.

Nos. 6-9, H.

These States, if disunited, would be tempted to war by *internal disputes* (such as those of the Western lands, New Hampshire grants, etc.), by *commercial rivalry* (such as jealousy against New York and New Jersey), by *apportionment of the federal debt* among the States, by *local laws* violating private contracts between citizens of different States, and by *alliances between individual States and foreign powers* incompatible with the interests of other States.

These interstate hostilities will lead primarily to great destruction of life and property, and ultimately to the establishment of standing armies, extension of the power of the executive, and elevation of the military over the civil power.

The Union will afford a barrier to *domestic faction and insurrection* (to which republics are liable and upon which the advocates of despotism rely for argument), by causing every citizen to possess the same opinions, passions, and interests.

When the faction is a *minority*, both a Union and a confederacy can control it by a regular vote, but when it is a *majority*, only the Union can do so, because of its distinguishing ability to *divide* the prevailing influences and prevent their *concentration*. This ability is *increased* in ratio of *territorial extension*. No. 10, M.

The Union will increase *commerce with foreign nations* by securing *uniformity of trade relations*, by establishing a *federal navy* to enforce respect of commercial rights, such as in the *fisheries*, and the navigation of *Western lakes* and the *Mississippi River*, and by the development of a *merchant marine*.

Nos. 11-13, H.

The Union will afford a better system of national revenue by substituting *indirect taxation* for direct taxation, to which the "genius of the people" is opposed.

The Union will increase national revenue by preventing

illicit trade, and interstate rivalry to secure trade by *reduction of customs duties*, and so will obviate the necessity of *real estate taxation*, which is oppressive, of *excise duties*, which are small in the agricultural States and hard to collect, and of *personal property*, which is difficult to trace.

The Union will also increase national revenue by greater *economy* in administration: there will be but one *civil* and one *military* list in place of several which would result from a number of confederacies.

The Constitution supplies an ideal form of government of *extensive territory* and *additions* thereto in its limitation of federal jurisdiction to objects of *general interest* and its provisions for organizing *new States*. No. 14, M.

The Union will facilitate *interstate transportation*.

Since all the States are on the frontier, the Union will equally provide for *defence against foreign aggression*.

II. *The Insufficiency of the Confederation.*

The general admission of this, even by the opponents of the Constitution, proves their inconsistency. Nos. 15-16, H.

The legislation of the Confederacy is defective in *raising men and money*.

The Confederacy lacks that authority over the *persons of the citizens* which is the essential foundation of a government. It cannot inflict *penalties* on offenders against federal laws, such as magistrates.

The Confederacy cannot coerce by arms *States* offending against federal laws. Branches of these laws are certain to arise by reason of the passions and interests of *individual members* of the States who are in power, and by the impatience of control which arises from the *sovereign power* of the States. Such offences have already occurred. If coercion is attempted by the Confederation, it would be productive of constant *Wars* through counter-alliance, either of the offending States or of an offending State or States with a foreign nation or nations, and these wars would ultimately lead to a *military despotism* and the death of liberty.

The Union being established on the responsibility of individual citizens who elect the national representatives, thus placing them in national matters above individuals in power in the State governments, would be enabled to *coerce* by arms offenders against national laws, the State governments being powerless to interfere by reason of *public opinion* against such interference.

The Federal Government under the Constitution would not

invade the reserved rights of the States, first, because of lack of inducement, and, secondly, because the federal representatives of the States could frustrate such invasion if it were attempted.

Nos. 17-19, *M.*

There is greater danger that the delegated rights of the Federal Government will be invaded by the State governments because of their more immediate influence over the people of the diffusive construction of the Federal Government, and of the superior intensity of popular interest in local over national interests.

The Confederacy is defective because of the total want of a sanction to its laws, having no power to exact obedience or punish disobedience, since it has received no express delegation of authority to use force against the States.

No. 21, *M.*

The Confederacy is defective because there is no mutual guaranty of the States to obey its federal laws, nor has it authority to assist a State in enforcing the State's own laws as in the case of Shay's Rebellion.

The Confederacy is defective because the State contributions to the common treasury are by *quotas*. This rule is based on a false presumption that there is a common measure of national wealth, and it is therefore inequitable. The national government should raise its revenues by duties on consumption which will be equitably raised from individuals throughout the entire Union, provided that the dutiable articles will be so selected that each citizen can regulate his consumption of them according to his resources. The rates of the duties will not become oppressive, since if they are either too high or too low the total revenue therefrom will be diminished. Indirect taxation of this sort is preferable to direct taxation proportioned either on the value of land or population, because it is an "Herculean task" to obtain a valuation of land, especially in an unsettled and rapidly improving country such as the United States, and because population, while a better and more convenient standard, is still not a true measure of wealth.

The Confederacy is defective because of the want of a power to regulate commerce by the formation of commercial treaties.

Nos. 22-35, *H.*

The Confederacy is defective because of its raising troops by *quotas*, which is very expensive, inadequate for defence, and unequal in the burden it imposes on the various States.

Representation in the Confederacy is unjust to the more populous States. A majority of the small States contains

a minority of the population of all, and the large States would in time rebel against their domination.

The Confederacy is defective because of want of a judiciary power, to expound and define the true meaning and operation of the laws, to construe foreign treaties, and to secure uniformity in legal decisions.

The Confederacy is defective in that it has never been ratified by the people.

III. *The Necessity of a Constitution at Least Equally Energetic to the One Proposed to Preserve the Union.*

Such a Constitution must provide for the common defence. The power to do so should be without limitation, because of unforeseen exigencies which may arise.

There is no adequate provision for the common defence in the Confederation, hence its failure.

A standing army is no menace, since it will be controlled by the legislative department elected by the people. The power of Congress to provide for the common defence is expressly limited by the Constitution. The constant danger of the United States from foreign and Indian hostilities and the demand of our growing commerce for protection are justifications of this power.

It would be an inversion of the primary principle of our association to place the common defence in the care of the individual States, since this would be oppressive to some of the States, and dangerous to all, and create jealousies between them. Besides, it would afford a temptation to the States to invade the constitutional authority of the Union.

The militia of the States is inadequate for the common defence, lacking vigor and stability, and being uneconomical.

A standing army in times of external peace is sometimes necessary—witness present disorders in Pennsylvania, and recent ones in Massachusetts. It will not threaten the liberties of the people, since Congress has authority in the matter, and the subject must be reconsidered every two years, thus preventing conspiracy, which requires time to be matured.

The standing army will not as a rule be required to enforce the laws of the Union, since the people will obey the Federal Government voluntarily—more willingly perhaps than the State governments, since the former will be the better administered. This superior administration will arise from the greater latitude in the choice of federal officers, causing the most intelligent men to be sent to the House and Senate, as well as the most patriotic, and therefore the least inclined to faction. The

Federal Government having public opinion behind it will be able to suppress sedition in the States without force, employing the ordinary magistracy of each State in the execution of its laws. The mere knowledge that the Federal Government can, if it will, use a force sufficient to execute its laws will prevent the occasion for employing this force.

In any form of federal government force would have to be employed at times. The present form, where this force is controlled by the people through Congress, is the best for the purpose. If Congress betrays the people, there is left the same recourse to self-defence as when a State legislature betrays the people, and, in addition, the assistance of the State against the federal usurpation.

A general power of taxation is necessary in every constitution to obviate official plunder and general atrophy of the government. The want of it in the Confederation has produced disaster. This power should extend to internal taxation, or the national revenues will be insufficient, causing recourse to the vicious system of requisitions upon the States. This system is vicious because (1) it cannot be depended on, (2) it diverts to Federal uses funds that would otherwise be used for needed State purposes, (3) it destroys public credit, (4) it renders loans difficult to be procured, and (5) it tends toward general disaster. On the contrary, internal taxation will (1) develop the resources of the country, (2) and render loans to supply deficiencies easy to procure, because of the increase of national credit by the new power delegated to the national Government.

The power of internal taxation delegated to a Federal Government will not interfere with State levies of money, since the good sense of the people, expressed through their representatives in Congress, will be a barrier to the oppressive use of this power; the hazard of provoking State resentment will be a second barrier, and the recognition by Congress that the Union is founded on the prosperity of its parts a third. Besides, the States would still retain an independent and uncontrollable authority to raise their own revenues. The sovereignty of the Federal Government is limited to grants made in express terms in the Constitution, (1) similar to, but not conflicting with those in the States, (2) expressly prohibitory of like authority in the States, and (3) implicitly contradictory and repugnant to similar authority in the States. The only exclusive power of taxation delegated to the Federal Government is that of imposing taxes on imports, and therefore the States may freely impose all other taxes. This concurrent authority is a neces-

sary result of the division of the sovereign power made by the Constitution.

The incidental powers in connection with taxation possessed by Congress under the Constitution are necessary to any form of national government. Power to levy taxes carries with it the authority to enforce the power. This executive power is expressed in the Constitution, not because it was necessary, but by way of caution. The exercise of the taxing power is in the discretion of Congress, whose constituents are the ultimate judges of it. The constitutionality of any measure, such as of taxation, would be determined by the nature of the power on which it was founded. Thus, if Congress, on the pretence of an interference with national revenues, should undertake to abrogate a land tax imposed by a State, it would be evident that this was an invasion of concurrent jurisdiction of Union and State. Acts of Congress not pursuant to the Constitution are usurpations, and should and would be resisted.

The taxing power of the Union must be supreme to be operative, since all laws must be supreme to those to whom they apply; therefore, concurrent authority concerning all taxation save customs duties was the only device which would be adopted to make the Union effective and at the same time prevent the entire subordination of the States.

This coordinate sovereignty is entirely practicable, as proved by its successful operation in the Roman empire, where the difficulties interfering with its execution were greater than in the United States.

Greater power in raising revenue is needed by the Federal Government than by the States, since it must provide for various purposes and future contingencies such as the public defence and payment of national debts, with which the State governments are not concerned.

The jurisdiction of the national Government in revenue matters should not be restricted to particular objects, since this would oppress particular branches of industry and distribute the burden of taxation unequally. If the jurisdiction is limited to a tariff, duties might be raised too high in the false hope that this would produce greater revenue, thus really decreasing revenue, as well as fostering monopolies in manufacture, diverting industry from its natural channels, and oppressing the merchant by impairing his capital through his inability to shift the tax upon consumers, and so operating against the citizens of importing States and in favor of those of non-importing and manufacturing States.

Representation in the House of Representatives is sufficiently

large to represent adequately all classes in the country. Merchants, because of their better education, are the national representatives of the mechanic and manufacturing classes, whose interests are at one with their own. Members of the learned professions have no distinct interests in society, and will be indiscriminately the choice of community, according to their talents. The large landholder and the middling farmer are affected in the same manner by legislation, and, judging by the choice of State legislators, the latter is more apt to be sent to Congress than the former. The merchants and the landholders will represent broadly the industrial and agricultural interests of the country, with the professional men as arbiters between them. The best representative is he who, whatever his profession, has the most extensive information, especially in matters pertaining to political economy, and who has a sympathetic knowledge of the interests and feelings of the people.

It is not necessary that every *locality* be represented in Congress. Members from each State can obtain the necessary information about its interests and desires.

The Constitution empowers Congress to levy a *direct tax* upon each State in proportion to its population. This power need not be exercised, and, if it proves inconvenient, the old system of requisitions may be resorted to.

While it is true that the Federal Government may *duplicate taxes* imposed by the State government, and so increase expense of collection, and excite the indignation of the people, these very results are likely to prevent Congress from attempting anything of the kind, and to cause it to rely for revenue upon its exclusive power to levy customs duties.

A proper Federal Government requires the power of regulating the *militia* and of commanding its services in times of insurrection and invasion, since uniformity in organization and discipline can be obtained only in this manner. The authority retained by the States to appoint the officers of the militia is a sufficient safeguard against the wrongful employment of the militia against a State.

IV. *The Conformity of the Proposed Constitution to the True Principles of Republican Government.*

Allowances should be made for the *inherent difficulties* in framing the Constitution: such as the difficulty of combining the requisite stability and energy in government with a due regard to liberty and the republican form; the difficulty of marking the proper line of partition between the authority of the general Government and that of the State governments; the

difficulty arising from the interfering pretensions of the larger and the smaller States; and the difficulty arising from other combinations of the States resulting from a difference of local position and policy. *No. 36, H.*

On the other hand, the convention was free from party animosities, and all the demands of the various deputations were finally satisfied.

All former national constitutions have been framed by a *single individual*, to which fact were due their defects, which therefore may be presumed to be absent in the workings of this Constitution.

The errors of the present Constitution will arise because of *lack of experience* in the innovations introduced in it, rather than because of *want of thought* in preparing them.

Nos. 37-58, M.

The Constitution is certainly an improvement on the Articles of Confederation; if it is not, let the objectors to it improve on it. Their objections certainly apply with more point against the old Articles than against the Constitution.

The proposed Constitution conforms to the *standard of republican government* as fixed by the governments of Holland, England, etc., in (1) the tenure of its offices, and (2) its prohibition of titles of nobility.

It will be founded on the *ratification* by the several States.

The sources of power of the proposed government are: (1) the people of America, as represented in the House of Representatives; (2) the States, as represented in the Senate; and (3) people and States, as represented in the Executive. These are also the sources of authority for the amendments to the Constitution.

The convention acted in framing the Constitution *within its authority*, which was "to establish in these States a firm national government, adequate to the exigencies of government and the preservation of the Union," "by making alterations and provisions in the articles of confederation," the same to be submitted to Congress and the States for ratification. The proposed system is therefore harmless until so ratified and, even if the convention exceeded its powers, this defect will be cured by such ratification.

The *aggregate* of the power given by the Constitution to the Federal Government is no less than it should be.

A Federal Government ought to have discretionary powers, in peace as well as in war, to provide against foreign danger, as well as the power of levying and borrowing money. Such

powers are given in the Constitution. They are, indeed, copied from the old system, differing only therefrom in being made effective, though with all proper *restrictions* cast about them.

So, too, such a government should have power to send and receive ambassadors and consuls and to make treaties; to punish piracies and felonies on the high seas, and offences against the law of nations; and to regulate foreign commerce. These powers are given in the Constitution. Owing to objections of certain States, the regulation of the slave trade was deferred until after a not distant year [1808], and before this time it may be regulated, or even abolished, with the concurrence of the objecting States.

Such a government should have power to maintain harmony and proper *intercourse between the States*. To this end the Constitution regulates trade with the Indians, coins money, and punishes counterfeiters, fixes the standard weights and measures, establishes a uniform rule of naturalization and a uniform law of bankruptcy, establishes a rule for proving the acts of the several States and determining their effect in other States, and establishes post-offices and post-roads.

Such a government should have power to pass *patent and copyright laws*, to legislate over the federal district, to punish *treason*, to admit new States, to govern the territories and other public property, to guarantee every State a republican form of government, to protect the States against invasion and domestic violence, to assume and control the payment of the *public debt*, and to provide for *amendments* to the Constitution, all of which powers are provided in the Constitution.

The provision that the Constitution shall be adopted upon the ratification of nine States is as just as it is necessary, since the dissenting States are left voluntarily in their present position save that the former contract of the confederation has already been legally dissolved, and may rightly be declared to have been dissolved because of its many infractions by the very dissenting States. The Constitution is silent on what relations shall exist between the Union and the dissenting States. This is for Congress and the dissenting States to decide, and it will undoubtedly, in view of common interest, be arranged with moderation on one side and prudence on the other.

The Constitution, in further enforcement of its sovereign powers, *restricts the authority* of the several States as to treaty-making, war-making, coinage and currency, the passage of bills of attainder, etc., as well as to the passage of such acts injurious to popular democratic rights as *ex post facto laws*, laws impair-

ing contracts, and establishment of titles of nobility, and it denies them the power delegated exclusively to Congress of levying customs duties.

A Federal Government should have the authority to make all laws necessary to execute its rightful powers. This the Constitution gives. The people, by their power over their Representatives in Congress, will prevent all usurpation which might result from such authority.

The Constitution rightly requires, in self-defence, that the various officers of the State governments, no less than of the Federal Government, be bound by oath to support it.

The Constitution will not prove fatal to the State governments, because of the tendency in all confederacies to diminish rather than increase the federal powers. Since the State governments possess more influence among the people, the State employees are more numerous than the national, and the State powers are greater than the national.

The proposed changes consist less in the addition of new powers to the Union than in the invigoration of its *old* ones. The State and the Federal Governments are only different agents for the people, with different powers and for different purposes. If popular favor should rest on the Federal Government, it would be only because it was better *administered*. There would be no danger of the Federal Government coercing the people, because of the high impossibility of collecting a force for such a purpose, and, if it should be collected, because of the superior power of the militia to overcome it.

In such a government the three parts, the legislative, executive, and judicial, should be separate and distinct, and yet, at the same time, be so far connected and blended as to give to each a constitutional control over the others, without any one possessing the supremacy. Mr. Jefferson proposed to counteract the tendency of the legislature to gain dominance by an appeal to the people, by two-thirds of the members of the other departments. This would be ineffective in opposing a combination of two branches of the Government for control, and unwise in that frequent appeals would impair the confidence of the people in the Government and disturb the public peace, while the legislature, which, as the people's representatives, would have to put their will into effect, would still control the decision. The best way in which to prevent the dominance of one branch over the others is *constitutional*. Thus the members of each branch should have little to do in the appointment of members of the others or with their emoluments, and the executive, in particular,

should have a *veto* over legislation. This is the plan of the present Constitution.

The House of Representatives is made by the Constitution the popular branch of Congress. In order not to interfere with the suffrage systems of the States, the Constitution fixed the qualifications of electors of Representatives in each State as those of the electors of the most numerous branch of the legislature of that State. Elections to the House were made biennial, frequent elections being considered a necessity for the proper voicing of the will of the people, yet *annual elections*, being thought too frequent for a body of legislators in whom experience in national legislation is a desirable qualification.

The apportionment of Representatives among the States was made on *population* in order that it be truly popular.

In this apportionment *three-fifths* of the *slaves* were reckoned, slaves partaking partly of the nature of persons and partly of the nature of property, even in the laws of the slave-holding States. Now it is right that *property* as well as *persons* should be represented in Congress. There will be no inducement for falsifying the census in the matter of slave population, as the measure for representation is also the measure of taxation.¹

The *number* of Representatives is not too small for thorough discussion and freedom from combination for improper purposes, nor too large for well-considered and temperate debate. As the country grows the representation will keep pace with its needs.

Since the members of the House will be elected by all classes and conditions of citizens, they will naturally be selected from all classes and conditions, and the desire for reelection will cause them to legislate for all classes and conditions, the more, too, because their *private interests* will be affected by the legislation in the same manner as the private interests of their constituents.

A bare majority of Representatives properly forms a quorum, and a bare majority of the quorum properly passes measures, since, if a two-thirds majority were required, the principle of democracy might be violated by an obstructing minority.

Power is given Congress to regulate its elections, because of the primary right of *self-preservation*. Otherwise the existence of the Union would be entirely at the mercy of the State governments. If Congress should attempt to promote the election of some favorite class of men, this design would be frustrated by an immediate revolt of the people, led by their State governments, as well as the Senate. *Nos. 59-61, H.*

The Senate is made by the Constitution the peculiar repre-

¹ See this argument in full on page 358.

sensation of the States in the national legislature, the mixed character of the Federal Government requiring a mixed representation. The recognition of State sovereignty in the Senate furnishes a security against legislation destructive of the equal rights of the States. The Senate is also a check against all hasty and ill-considered legislation. Its membership does not change so often as that in the House of Representatives, thus giving the element of stability in our laws which is demanded, especially by the business interests.

The Senate will add a conservative force in our national councils which will attract the respect of foreign nations and enable us to form advantageous political and commercial relations with them.

The Senate will also defend the people against their own temporary errors and delusions. *Nos. 62, 63, M.*

History informs us of no long-lived republic which had not a senate. It also proves the objection groundless that the Senate will gradually acquire a dangerous preëminence in the Government and finally transform it into a tyrannical aristocracy. Besides, the House of Representatives will be a sufficient check against such an usurpation.

The important treaty-making power has been given the Senate rather than the House of Representatives from the more intimate acquaintance by the Senate with public affairs, and its farther removal from the influence of the temporary passions of the people. Its proceedings will undoubtedly be secret, and secrecy and despatch are often required in foreign relations.

Treaties are international bargains and are, therefore, made supreme laws, above mere legislative acts, in order not to be subject to repeal at the passing whim of the people. Since all the States are equally represented in the Senate, there is no fear, in treaties or other acts in which it has a deciding vote, that the interests of one State will be unfairly dealt with.

The Senate, rather than the Supreme Court, has been made the court of impeachment. The Supreme Court, with its limited membership, might not possess the fortitude or credit with the people requisite to execute the duties of the trust, and, as impeachment will not end the proceedings, it would be improper to bring the offender twice before the same court. *No. 64, J.*

The remaining numbers, 65 to 85, are by Hamilton.

The objection that legislative and judicial authority should not be united in the same body is ill-founded—witness the suc-

cessful working of this union in the constitution of New York State.

In appointments the Senate does not *choose*, but merely *ratifies*, and so there is no fear that it will be too lenient a judge of officers.

Because of its *joint-agency* with the President in treaty-making, in which two-thirds of the Senate must concur, there is little danger of corrupt or perfidious action and of the consequent result that Senators may be called on to impeach themselves for such action. Indeed, there would be no need of impeachment, since they already would be disgraced.

The President is designed by the Constitution to possess the dignity and power due to the head of the nation, without the prerogatives of a monarch. It was desirable that the sense of the people should operate in choosing him; and yet that the choice be made by competent persons, guarded from all chance of cabal, intrigue, and corruption. This was arranged for, both in his case, and that of the Vice-President.

The President is elected for four years and is reëligible as often as the people shall think him worthy of their confidence. Such reëlection of the chief magistrate is common in State governments, where a dangerous influence is far more likely to be formed than in the nation, and it has not been found an evil practice.

As a check upon executive tyranny the President is made liable to impeachment, trial, removal from office, and subsequent imprisonment, unlike the Governors of Maryland and Delaware.

The President has the power to veto an act of Congress, which, nevertheless, Congress may pass over his veto by a two-thirds majority. This is the case with the Governor of Massachusetts in respect to the legislature.

The President is Commander-in-Chief of the army and navy, just as the Governor of New York is of the State militia.

He has power to pardon offenders against the law, *except in cases of impeachment*. The Governor of New York may pardon in these excepted cases, when they are not treason and murder.

The President may adjourn Congress only in case of disagreement about the time of adjournment. The Governor of New York may prorogue the legislature in any case for a limited time.

The President, as the recognized head of the nation, has the power of making treaties and appointing ministers, but only with the concurrence of the Senate. In this his authority differs in nature from that of a State executive, and necessarily so because of the Union's exclusive sovereignty on the point.

For convenience the President is authorized to receive foreign ministers, Congress not always being in session.

No defender, therefore, of the State constitutions can rightly object to the powers of the national executive.

The Constitution wisely has placed the executive power in the hands of *one man*, thus concentrating energy of action and responsibility for conduct, as well as reducing expense.

The Constitution has wisely rendered the President independent in his actions, by his reasonably long term of office, and by his coordinate powers with the other two branches of government.

The heads of the various executive departments, being deputies of the President, are rightly appointed by him and responsible to him. When the person of the executive changes, these will probably change. Therefore stability in government will be promoted by continuance of the same man in the office of President.

Eligibility to reelection is also a good feature in that it affords inducements to good behavior.

The emolument of the President is fixed by Congress, thus making him independent of Congress, whose tool he might be if they determined his compensation.

A veto power is given him in order to defend himself from legislative aggressions, and the people from improper legislation, and yet this veto is *limited* to prevent executive usurpation. The Governor of Massachusetts has a similar power.

The President is assisted by a cabinet composed of heads of the executive departments, from whom he may require opinions.

He has the power of *pardon*ing offenders against the laws of the Union. The criminal code of every country partakes so much of necessary severity that, without an easy access to exceptions in favor of unfortunate guilt, justice would wear a countenance too sanguinary and cruel. Concurrence of the legislature in cases of *treason* is not required, since a well-timed offer of pardon to insurgents may quell a rebellion, which would have made too much headway before the legislature could be convened.

Since treaty-making is both an *executive* and *legislative* function, it is committed to the President and the Senate in combination.

The appointment of certain officers is given to the President in connection with the Senate because it would be impracticable to leave it to the people. The delegation of this to *one man* will beget a livelier sense of duty and greater regard

to reputation on the part of the officers. The necessary concurrence by the Senate will afford a check on the favoritism of the executive, and the prohibition of a Senator to hold office will prevent an improper use of this check. To add to the concurrence of the House of Representatives in appointments would occasion infinite delays and embarrassments.

The President has the necessary executive powers of communicating to Congress information (which he receives through the departments) of the state of the Union, recommending measures which he deems expedient, convening one or both branches of Congress on extraordinary occasions, adjourning Congress in case of a disagreement concerning time of adjournment, receiving ambassadors and other public ministers, executing the laws of the Union, and commissioning all the officers of the United States.

The tenure by which the Federal judges hold their offices is unobjectionable because similar to that of the judiciary in several States. Being the weakest of the three departments of government, the executive holding the sword, and the legislative the purse, it is made completely *independent* of the other two, both in powers and emolument. Its authority to pronounce legislative acts void because contrary to the Constitution does not indicate superiority to the legislature except in cases where the legislature is violating the will of the people as previously determined upon. The Constitution ought to be preferred to the statute; the intention of the people to the intention of their agents.

The Federal judiciary is designed to be an intermediate body between the people and the legislature, to keep the latter within its assigned limits and protect the rights of individuals from laws.

The court is designed also to intervene, in times of popular passion, between the Constitution and both legislature and people, in order to prevent changes in the fundamental law of the land except by the process laid down in the Constitution, and to protect the rights of individuals guaranteed in it.

In order to prevent corruption among these judges they may be impeached for malconduct by the House of Representatives and tried by the Senate. To impeach them for *inability*, except in the case of insanity, gives an opportunity for abuse of legislative power and, hence, this was not permitted.

The powers of the judiciary necessarily extend to all cases: (1) which concern the execution of the provisions in the Constitution; (2) in which the United States are a party; (3) which

involve the peace of the Union (foreign and interstate relations); (4) which are of maritime jurisdiction; and (5) wherein State tribunals cannot be supposed to be impartial and unbiased (territorial disputes).

The Constitution provides for "one court of supreme and final jurisdiction," and inferior courts, thus securing adjudication of important cases by the *greater legal ability*.

Congress cannot rectify the effect of these adjudications except in the future, when it can do so by the passage of *new laws*.

Original jurisdiction in the supreme court is only in diplomatic affairs, and in cases in which a State is a party.

It is inherent in the nature of a sovereignty not to be amenable to the suit of an *individual* without the sovereign's consent. Hence an assignment of the public securities of one State to the citizens of another would not enable these citizens to sue that State in the Federal courts.

The supreme court has "appellate jurisdiction, both as to law and fact." This does not necessarily imply a reexamination in *common law* cases of facts decided by juries in the inferior courts, for such is not the legal custom; in *civil law* cases, however, reexamination of facts is agreeable to usage. Congress certainly has power to prohibit reexamination of facts in the former cases.

The State courts will *retain* the jurisdiction they now have, except where it has been expressly delegated to the Federal courts. There is thus *concurrent* State and Federal jurisdiction as well as legislation.

Congress may commit certain legislation to the jurisdiction of the Federal courts without divesting the State courts of their primitive jurisdiction further than may relate to an appeal, nor of the right to take cognizance of causes which may arise out of such legislation.

An appeal will lie from the State courts to the supreme court of the United States.

The Constitution does not provide for trial by jury in civil cases, because, while trial by jury is essential in criminal cases, it is of relative unimportance in civil cases, as is indicated by the varying usage among the States.

The Constitution could not with propriety adopt the system of one State, and therefore left the question in abeyance, to be settled by Congress.

The Constitution contains no special *Bill of Rights*, since this is unnecessary, these rights being both expressly and implicitly contained in the body of the instrument, which itself is

a bill of rights. Besides, the people will surrender none of these rights in adopting the Constitution, and their future interest in them will be protected by their Representatives in Congress. Indeed, the statement of a bill of rights would be dangerous as implying the grant to the Federal Government of all powers not expressly withheld therefrom.

The Constitution does not provide for debts due to the United States. This is unnecessary, as it is an established rule of national law that "States neither lose any of their rights, nor are discharged from any of their obligations, by a change in the form of their civil government."

The proposed government is *economical*, the number of State officers being diminished to the extent of the addition of Federal, and the sessions of State legislatures being diminished in number and shortened in duration by the sessions of Congress.

V. Additional Securities to Republican Government

The additional securities to republican government, to liberty, and to property, to be derived from the adoption of the plan under consideration, consist chiefly in the restraints which the preservation of the Union will impose on local factions and insurrections, and on the ambition of powerful individuals in single States, who might acquire credit and influence enough, from leaders and favorites, to become the despots of the people; in the diminution of the opportunities to foreign intrigue, which the dissolution of the Confederacy would invite and facilitate; in the prevention of extensive military establishments, which could not fail to grow out of wars between the States in a disunited situation; in the express guaranty of a republican form of government to each; in the absolute and universal exclusion of titles of nobility; and in the precautions against the repetition of those practices on the part of the State governments which have undermined the foundations of property and credit, have planted mutual distrust in the breasts of all classes of citizens, and have occasioned an almost universal prostration of morals.

VI. Adopt the Constitution and Amend It Afterward.

It is susceptible of absolute demonstration that it will be far more easy to obtain subsequent than previous amendments to the Constitution. The moment an alteration is made in the present plan it becomes, to the purpose of adoption, a new one, and must undergo a new decision of each State. To its complete establishment throughout the Union it will therefore require the concurrence of thirteen States. If, on the contrary, the Consti-

tution proposed should once be ratified by all the States as it stands, alterations in it may at any time be effected by nine States. Here, then, the chances are as thirteen to nine¹ in favor of subsequent amendments, rather than of the original adoption of an entire system.

This is not all. Every Constitution for the United States must inevitably consist of a great variety of particulars, in which thirteen independent States are to be accommodated in their interests or opinions of interest. We may of course expect to see, in any body of men charged with its original formation, very different combinations of the parts upon different points. Many of those who form a majority on one question may become the minority on a second, and an association dissimilar to either may constitute the majority on a third. Hence the necessity of moulding and arranging all the particulars which are to compose the whole, in such a manner as to satisfy all the parties to the compact; and hence, also, an immense multiplication of difficulties and casualties in obtaining the collective assent to a final Act. The degree of that multiplication must evidently be in a ratio to the number of particulars and the number of parties.

But every amendment to the Constitution, if once established, would be a single proposition, and might be brought forward singly. There would then be no necessity for management or compromise, in relation to any other point; no giving, nor taking. The will of the requisite number would at once bring the matter to a decisive issue. And, consequently, whenever nine, or rather ten, States were united in the desire of a particular amendment, that amendment must infallibly take place. There can, therefore, be no comparison between the facility of effecting an amendment and that of establishing in the first instance a complete Constitution.

In opposition to the probability of subsequent amendments, it has been urged that the persons delegated to the administration of the national Government will always be disinclined to yield up any portion of the authority of which they were once possessed. [But] any amendments which may, upon mature consideration, be thought useful will be applicable to the organization of the Government, not to the mass of its powers; and the intrinsic difficulty of governing thirteen States at any rate, independent of calculations upon an ordinary degree of public spirit and integrity, will constantly *impose* on the national rulers the *necessity* of a spirit of accommodation to the reasonable ex-

¹ It may rather be said *ten*, for, though two-thirds may set on foot the measure, three-fourths must ratify.

pectations of their constituents. But there is yet a further consideration, which proves beyond the possibility of doubt that the observation is futile. It is this, that the national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be *obliged*, "on the application of the legislatures of two-thirds of the States" (which at present amount to nine) "to call a convention for proposing amendments, which *shall be valid* to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three-fourths of the States, or by conventions in three-fourth thereof." The words of this article are peremptory. The Congress "*shall* call a convention." Nothing in this particular is left to the discretion of that body. And, of consequence, all the declamation about the disinclination to a change vanishes in air. Now, however difficult it may be supposed to unite two-thirds, or three-fourths, of the State legislatures in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people? We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority.

VII. Appeal to the People.

It may be in me a defect of political fortitude, but I acknowledge that I cannot entertain an equal tranquillity with those who affect to treat the dangers of a longer continuance in our present situation as imaginary. A nation without a national government is, in my view, an awful spectacle. The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety. I can reconcile it to no rules of prudence to let go the hold we now have, in so arduous an enterprise, upon seven out of the thirteen States;¹ and after having passed over so considerable a part of the ground to recommence the course. I dread the more the consequences of new attempts, because I know that powerful individuals, in this and in other States, are enemies to a general national government in every possible shape.

ADOPTION OF THE CONSTITUTION

The ratification of the Constitution by the State of New Hampshire, being the ninth in order, was laid be-

¹ When this letter was written seven States had ratified the Constitution.

CHAPTER XVI

THE CONSTITUTION AND ITS AMENDMENTS

Text of the Constitution—History of the Amendments to the Constitution—Text of Amendments.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

WE the people of the United States in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

SECTION I

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION II

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined

fore Congress on the 2d of July, 1788, and, with the ratifications of the other States, referred to a committee to report an act for carrying the new system into operation. An act for this purpose was reported on the 14th of the same month, but, in consequence of a division as to the place where the first Congress should meet, did not pass until the 13th of September following. By this act the electors of the President were to be appointed on the first Wednesday of January, 1789, and to give in their votes on the first Wednesday of the succeeding February; the first Wednesday of March, being the 4th day of that month, was fixed as the *time*, and the city of New York as the *place*, for beginning proceedings under the new Constitution.

THE CONSTITUTION

by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECTION III

[The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.¹]

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; [and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.¹]

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

The Senate shall choose their other officers, and also a Presi-

¹Text within brackets has been supplanted by XVIIth Amendment.

dent pro tempore, in the absence of the Vice-President or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments: when sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend farther than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION IV

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year and such meeting shall be on the first Monday in December unless they shall by law appoint a different day.

SECTION V

Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION VIII

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post-offices and post roads;

To promote the progress of science and useful arts by securing for limited times to author. and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever over

SECTION VI

The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time: and no person holding any office under the United States shall be a member of either House during his continuance in office.

SECTION VII

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose, or concur with, amendments, as on other bills.

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted), after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and, before the same shall take

such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION IX

The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year eighteen hundred and eight, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person.

The privilege of the writ of *Habeas Corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, prince, or foreign state.

SECTION X

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money, emit

bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law; or law impairing the obligation of contracts; or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II

SECTION I

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States shall be appointed an elector.

The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the

House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then from the five highest on the list the said House shall, in like manner, choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes the Senate shall choose from them by ballot the Vice-President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed or a President shall be elected.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office he shall take the following oath or affirmation: "*I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.*"

SECTION II

The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several

States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECTION III

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION IV

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

SECTION I

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Con-

gress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION II

The judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States—between a State and citizens of another State—between citizens of different States—between citizens of the same State, claiming lands under grants of different States—and between a State or the citizens thereof and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but, when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION III

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained.

ARTICLE IV

SECTION I

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION II

The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECTION III

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECTION IV

The United States shall guaranty to every State in this Union a republican form of government, and shall protect each

of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall, in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

AMENDMENTS TO THE CONSTITUTION

The subject of amending the Constitution was brought before Congress during its first session by petitions from the States of Virginia and New York, requesting that another convention might be called to take into consideration and report such amendments as they might think proper and best calculated "to promote our common interests, and to secure to ourselves and our latest posterity the great and unalienable rights of mankind." The States of Virginia and New York were both opposed to the Constitution without the amendments proposed in their respective conventions. This opposition was strongly manifested in the legislature of Virginia in the first choice of Senators. Mr. Madison, who had been so instrumental, not only in forming the new system, but in procuring its ratification, though a candidate, lost his election. His opponents, Richard Henry Lee and William Grayson, were chosen. Madison, however, was elected to the House of Representatives. The same legislature requested another general convention.

Congress, however, had no authority to call a convention. Mr. Madison submitted to the House several amendments which, together with those presented by the several States, were referred to a committee consisting of one member from a State with general instructions. Amendments were reported by this committee, and after long debates and various alterations twelve articles were agreed to by both Houses to be submitted to the States, and were so submitted on September 25, 1789.

In the course of the next three years ten of these amendments were ratified by the constitutional majority of the States, an article proposing a *fixed* ascending scale of Representatives according to population, and an article prohibiting changes in compensation for members of Congress until after an election had intervened, being rejected.

In the course of the discussion in Congress a debate occurred as to whether the amendments should be inter-

woven into the Constitution or added as a supplement (see "Annals of Congress," August 13, 1789). The supplementary form was decided upon chiefly out of reverence for the Constitution which had already come to be regarded as an "Ark of the Covenant," not to be touched even to steady it.

Article XI, in reference to the judicial power, was passed by Congress in 1794, and declared ratified by three-fourths of the States in 1798.

This amendment arose out of a decision made by the Supreme Court in February 1793. Four of the five judges decided that a State was liable to a suit in favor of an individual. This important and interesting question came before the court in a suit instituted by a citizen of South Carolina (Mr. Chisholm) against the State of Georgia. The State of Georgia did not appear, and the question was argued solely by the Attorney-General of the United States (Edmund Randolph) in favor of the plaintiff.

The decision was grounded on that part of the Constitution establishing the Federal judiciary, which declares that the judicial power should extend among other cases "to controversies between a State and citizens of another State." The court were of opinion that this was not limited to controversies where the State was plaintiff.

In consequence of this decision, in the summer of 1793, a suit was also commenced by an individual against the State of Massachusetts, and suits against other States were no doubt in contemplation. Therefore Congress at the following session passed the Eleventh Amendment.

Article XII, in reference to Presidential and Vice-Presidential elections, was passed by Congress in 1803, and declared ratified in 1804.

Article XIII, in reference to slavery, was passed by Congress and submitted to the States February 1, 1865, and declared ratified on December 18 of that year. For the debate on this amendment see Volume VI, chapter XIV.

Article XIV, in reference to rights of citizenship, was

passed by Congress June 16, 1866, and declared ratified on July 28, 1868. For the debate on this amendment, see Volume VII, chapter XII.

Article XV, in reference to equal manhood suffrage, was passed by Congress on February 27, 1869, and declared ratified on March 30, 1870. For the debate on this amendment, see Volume VIII, chapter III.

Article XVI, in reference to the income tax, was passed by Congress on July 12, 1909, and declared ratified on February 25, 1913. For the debate on this amendment, see Volume XII, chapter XVII.

Article XVII, in reference to the popular election of Senators, was passed by Congress on May 15, 1912, and was declared ratified on May 31, 1913. For the debate on this amendment, see Volume IX, chapter XII.

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ARTICLE XII

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and, if no person have such majority, then, from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-

ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

President, if such number be a majority of the whole number of Electors appointed, and, if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

ARTICLE XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as a part of the Constitution.

GREAT DEBATES IN AMERICAN HISTORY

*From the Debates in the British Parliament on the
Colonial Stamp Act (1764-1765) to the Debates
in Congress at the Close of the Taft
Administration (1912-1913)*

EDITED BY

MARION MILLS MILLER, Litt.D. (PRINCETON)

Editor of "The Life and Works of Abraham Lincoln," etc.

IN FOURTEEN VOLUMES

EACH DEALING WITH A SPECIFIC SUBJECT, AND CONTAINING A SPECIAL INTRODUCTION
BY A DISTINGUISHED AMERICAN STATESMAN OR PUBLICIST

VOLUME TWO

FOREIGN RELATIONS: PART ONE

With an Introduction by WILLIAM JENNINGS BRYAN, LL.D.
Secretary of State



James Madison

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INTRODUCTION

INTERNATIONAL RIVALRY IN IDEALS¹

WILLIAM JENNINGS BRYAN, LL. D.
Secretary of State

WE have reason to look with some degree of pride upon the achievement of the United States; we contemplate the present with satisfaction and look to the future with hope, and yet we may well remember that we are but building upon the foundations that have been laid for us. We did not create the fertile soil that is the basis of our agricultural greatness; the streams that drain and feed our valleys were not channeled by human hands. We did not fashion the climate that gives us the white cotton belt of the South, the yellow wheat belt of the North, and the central corn belt that joins the two and overlaps them both. We do not gather up the moisture and fix the date of the early and later rains; we did not hide away in the mountains the gold and the silver; we did not store in the earth the deposits of copper and of zinc; we did not create the measures of coal and the beds of iron. All these natural resources, which we have but commenced to develop, are the gift of Him before whom we bow in gratitude to-night.

Nor are we indebted to the Heavenly Father alone, for we have received much from those who are separated from us by the Atlantic. If we have great and flourishing industries we must not forget that every nation in

¹ Adapted from a speech delivered in London at the annual banquet of the American Society on Thanksgiving Day, November 26, 1903.

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INTRODUCTION

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the Declaration of Independence. That is a document which we have given to the world, and yet the principles set forth therein were not invented by an American. Thomas Jefferson expressed them in felicitous language and put them into permanent form, but the principles had been known before. The doctrine that all men are created equal, that they are endowed with inalienable rights, that governments were instituted among men to secure these rights, and that they derived their just power from the consent of the governed—this doctrine which stands four square with all the world was not conceived in the United States, it did not spring from the American mind—ay, it did not come so much from any mind as it was an emanation from the heart, and it had been in the hearts of men for ages. Before Columbus turned the prow of his ship toward the west on that eventful voyage, before the Barons wrested Magna Charta from King John—yes, before the Roman legions landed on the shores of this island—ay, before Homer sang—that sentiment had nestled in the heart of man, and nerved him to resist the oppressor. That sentiment was not even of human origin. Our own great Lincoln declared that it was God himself who implanted in every human heart the love of liberty.

Yes, when God created man, He gave him life. He linked to life the love of liberty, and what God hath joined together let no man put asunder. We have received great blessings from God and from all the world, and what is our duty? We cannot make return to those from whom those gifts were received. It is not in our power to make return to the Father above. Nor can we make return to those who have sacrificed so much for our advancement. The child can never make full return to the mother whose life trembled in the balance at its birth, and whose kindness and care guarded it in all the years of infancy. The student cannot make full return to the teacher who awakened the mind and aroused an ambition for a broader intellectual life. The adult cannot make full return to the patriarch whose noble life gave inspiration and incentive. So a generation cannot make return to the generation gone; it must

Europe has sent us its trained and skilled artisans. If we have made intellectual progress, we must remember that those who crossed the ocean as pioneers brought with them their intelligence and their desire for learning. Even our religion is not of American origin. We laid the foundations of our church in the Holy Land, and those who came in the *Mayflower* and in other ships brought a love of religious liberty. Free speech, which has been developed in our country, and which we prize so much, is not of American origin. I have been profoundly impressed with the part that Englishmen have taken in establishing the right of free speech. Passing through the Bank of England my attention was called to a protest that Admiral Cochrane wrote upon the bank note with which he paid the thousand pounds fine that had been assessed against him. I was interested in that protest because it showed a fearlessness that indicates the possibilities of the race. Let me read what he said: "My health having suffered by long and close confinement, and my oppressors having resolved to deprive me of property or life, I submit to robbery to protect myself from murder in the hope that I shall live to bring the delinquents to justice."

That is the spirit that moves the world! There was a man in prison. He must pay his fine in order to gain his liberty. He believed the action of the court unjust. He knew that if he stayed there he would lose his life and lose the chance for vindication, and yet, as he was going forth from the prison doors, he did not go with bowed head or cringing, but flung his protest in the face of his oppressors and told them he submitted to robbery to protect his life in the hope that, having escaped from their hands, he might bring them to justice. I like that in the Englishman, and during my short knowledge of public affairs I have looked across the ocean and admired the moral courage and the manliness of those Englishmen who have dared to stand out against overwhelming odds and assert their opinions before the world.

We sometimes feel that we have a sort of proprietary interest in the principles of government set forth in

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make its return to the generations to come. Our nation must discharge its debt not to the dead, but to the living. How can our country discharge this great debt? In but one way, and that is by giving to the world something equal in value to that which it has received from the world. And what is the greatest gift that man can bestow upon man? Feed a man and he will hunger again; give him clothing and his clothing will wear out, but give him a noble ideal and that ideal will be with him through every waking hour, lifting him to a higher plane of life, and giving him a broader conception of his relations to his fellows.

I know, therefore, of no greater service that my country can render to the world than to furnish to the world the highest ideal that the world has known. That ideal must be so far above us that it will keep us looking upward all our lives, and so far in advance of us that we shall never overtake it. I know of no better illustration of an ideal life than the living spring, pouring forth constantly of that which refreshes and invigorates—no better illustration of a worthless life than the stagnant pool which receives contribution from all the land around and around and gives forth nothing. Our nation must make a large contribution to the welfare of the world, and it is no reflection upon those who have gone before to say that we ought to do better than they have done. We would not meet the responsibilities of to-day if we did not build still higher the social structure to which they devoted their lives.

I visited the Tower of London and saw upon the wall a strange figure. It was made of swords, ramrods, and bayonets, and was fashioned into the form of a flower. Someone had put a card on it and aptly named it the passion flower—and it has been too often the international flower. But the world has made progress. No longer do ambition and avarice furnish a sufficient excuse for war. The world has made progress, and to-day you cannot justify bloodshed except in defence of a right already ascertained, and then only when all peaceable means have been exhausted. The world has made progress. We have reached a point where we re-

spect not the man who will die to secure some pecuniary advantages, but the man who will die in defence of his rights. We admire the courage of the man who is willing to die in defence of his rights, but there is yet before us a higher ground. Is he great who will die in defence of his rights? There is yet to come the greater man—the man who will die rather than trespass upon the rights of another. Hail to the nation whatever its name may be that leads the world toward the realization of this higher ideal. I am glad that we now recognize that there is something more powerful than physical force. No one has stated this better than Carlyle. He said that thought was stronger than artillery parks, and at last molded the world like soft clay; that behind thought was love, and that there never was a wise head that had not behind it a generous heart.

The world is coming to understand that armies and navies, however numerous and strong, are impotent to stop thought. Thought inspired by love will yet rule the world. I am glad that there is a national product more valuable than gold or silver, more valuable than cotton or wheat or corn or iron—an ideal. That is a merchandise—if I may call it such—that moves freely from country to country. You cannot vex it with an export tax or hinder it with an import tariff. It is greater than legislators, and rises triumphant over the machinery of government. In the rivalry to present the best ideal to the world, love, not hatred, will control; and I am glad that I can return thanks for what my country has received, thanks for the progress that the world has made, and that I can contemplate with joy the coming of that day when rivalry between nations will be, not to see which can injure the other most, but to show which can hold highest the light that guides the footsteps of the human race to higher ground.

W. J. Bryan

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of his country dictated a state of neutrality, which, he was convinced, might be maintained without violation of national faith. Aware of the importance and delicacy of the crisis, he assembled his Cabinet in April for their advice. To them he submitted certain questions with respect to the existing and prospective relations with France.

THE PRESIDENT'S QUESTIONS

1. Shall a proclamation issue for the purpose of preventing interference of the citizens of the United States in the war between France and Great Britain, etc.? Shall it contain a declaration of neutrality or not? What shall it contain?
2. Shall a minister from the republic of France be received?
3. If received, shall it be absolutely or with qualifications; and, if with qualifications, of what kind?
4. Are the United States obliged by good faith to consider the treaties heretofore made with France as applying to the present situation of the parties? may they either renounce them or hold them suspended until the government of France shall be established?
5. If they have the right, is it expedient to do either? and which?
6. If they have an option, would it be a breach of neutrality to consider the treaties in operation?
7. If the treaties are to be considered as now in operation, is the guaranty in the treaty of alliance applicable to a defensive war only, or to a war, either offensive or defensive?
8. Does the war in which France is engaged appear to be offensive or defensive on her part? or of a mixed and equivocal character?
9. If of a mixed and equivocal character, does the guaranty in any event apply to such a war?
10. What is the effect of a guaranty, such as that to be found in the treaty of alliance between the United States and France?
11. Does any article in either of the treaties prevent ships of war, other than privateers, of the powers opposed to France, from coming into the ports of the United States to act as convoys to their own merchantmen? or does it lay any other restraints upon them more than would apply to the ships of war of France?
12. Should the future regent of France send a minister to the United States, ought he to be received?

CHAPTER I

THE FRENCH ALLIANCE

Franco-British War—Opposing Views in Washington's Cabinet as to Proper Relations with France—Washington Issues Proclamation of Neutrality: Controversy Between "Pacifists" [Alexander Hamilton] and "Helvidius" [James Madison] as to Whether the President Encroached on the Powers of Congress.

THE essential object of the French-American treaty of 1778 was "to maintain the liberty, sovereignty, and independence of the United States as well in matters of government as of commerce." In the event of conquest Canada and Bermuda were to belong to the United States, and the West Indies to France. Each party was to fulfill its part of the treaty according to its own power and circumstances, and no after-claim of compensation was to be made on either side, whatever be the cost of the war.

As a result of this treaty events occurred in 1793 which inflamed partisanship to a degree hitherto not attained in the politics of America.

War had broken out between the new republic of France and Great Britain and Holland, and the American people in general were eager to support their former ally and present sister republic. Indeed, many individuals were ready to engage in privateering against the commerce of the enemies of France, regardless of consequences to the United States.

President Washington, however, from his high station, was called upon to view these great events as they might affect his own country, and he felt himself bound to consult the dictates of his judgment rather than the impulse of his feelings. He foresaw that the storm which was gathering in Europe must soon reach the United States, and he was satisfied that the best interests

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13. Is it necessary or advisable to call together the two Houses of Congress with a view to the present posture of European affairs? if it is, what should be the particular objects of such call?

These questions were of course communicated confidentially, but they afterwards clandestinely found their way to the public.

The answers of the members of the Cabinet to these questions were requested in writing. On some of them the opinions of the members were unanimous; on others a difference prevailed. All were in favor of issuing a proclamation of neutrality, of receiving a minister from the existing French Government, and against convening Congress. Some of the Cabinet, however, were for receiving the minister with some degree of qualification, from a doubt whether the government of France could be considered as finally settled by the deliberate sense of the nation. The President, however, concluded to receive him in an unqualified manner. As to the clause of guaranty in the treaty of 1778 a difference of opinion also existed in the Cabinet. The Secretaries of the Treasury [Alexander Hamilton] and of War [Henry Knox] considered the cause as applicable only to a *defensive war*, and therefore not binding in a contest commenced by France herself, while the Secretary of State [Thomas Jefferson] and the Attorney-General [Edmund Randolph] thought it unnecessary at that time to decide the question. This divergence of views among the members of the Cabinet served to increase the divisions already existing among the people.

A proclamation was issued by the President on the 22nd of April, declaring it to be the duty and interest of the United States to pursue a conduct friendly and impartial toward the belligerent powers of Europe, and that it was their disposition to observe such conduct, warning the citizens to avoid all acts tending to contravene such a disposition, and declaring that those who might render themselves liable to punishment by committing, aiding, or abetting hostilities against any of the belligerents, or by carrying contraband of war, would not receive the protection of the United States.

"PACIFICUS" (Hamilton) vs. "HELVIDIUS" (Madison)

ON THE PRESIDENT'S PROCLAMATION OF NEUTRALITY

The proclamation created a heated debate in the press of the country. Alexander Hamilton wrote a series of articles in defence of the proclamation signed "Pacificus," which were replied to by James Madison in a series signed "Helvidius."

ARGUMENT OF HAMILTON

I

Hamilton first stated the objections to the proclamation:

1. That the proclamation was without authority.
2. That it was contrary to our treaties with France.
3. That it was contrary to the gratitude which is due from this to that country for the succors afforded to us in our own revolution.
4. That it was out of time and unnecessary.

Preliminary to answering the first objection, Hamilton stated the nature and design of a proclamation of neutrality. This, he said, was to announce to the belligerent powers that the country was at peace with both belligerents and without treaty obligations to become an *associate in the war* with either party, and therefore that it would remain strictly *neutral*, and to warn the citizens of the country where the proclamation issued to abstain from acts violating this neutrality under penalty of punishment by the law of the land of which the "law of nations" (*jus gentium*) is a part. Such a proclamation to the citizens is necessary to relieve the nation from responsibility for these acts (Vattel, Book III, Chapter 7, Section 113).

The first question was: Had the executive department a constitutional right to make this proclamation?

Hamilton affirmed that it had, the Constitution designating it as the treaty-making, and, under the general power of executing all laws, the treaty-executing power. He said that there were two and only two exceptions to

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connected with him in the making of treaties, and though the consequence of his act of reception is to give operation to those heretofore made with that country. But he is censured for having declared the United States to be in a state of peace and neutrality, with regard to the powers at war; because the right of *changing that state, and declaring war*, belongs to the legislature.

It deserves to be remarked that, as the participation of the Senate in the making of treaties and the power of the legislature to declare war are exceptions out of the general "executive power" vested in the President, they are to be construed strictly, and ought to be extended no further than is essential to their execution.

While, therefore, the legislature can alone declare war, can alone actually transfer the nation from a state of peace to a state of hostility, it belongs to the "executive power" to do whatever *else* the law of nations, cooperating with the treaties of the country, enjoins in the intercourse of the United States with foreign powers.

In order to the observance of that conduct which the laws of nations, combined with our treaties, prescribed to this country, in reference to the present war in Europe, it was necessary for the President to judge for himself whether there was anything in our treaties incompatible with an adherence to neutrality. Having decided that there was not, he had a right, and, if in his opinion the interest of the nation required it, it was his duty, as executor of the laws, to proclaim the neutrality of the nation, to exhort all persons to observe it, and to warn them of the penalties which would attend its non-observance.

The proclamation has been represented as enacting some new law. This is a view of it entirely erroneous. It only proclaims a *fact*, with regard to the *existing state* of the nation; informs the citizens of what the laws previously established require of them in that state, and notifies them that these laws will be put in execution against the infractors of them.

II

The second and principal objection to the proclamation, namely, that it is inconsistent with the treaties between the United States and France, will now be examined.

Referring to Vattel, Book III, Chapter 6, Section 101, Hamilton said that those treaty obligations with

the executive powers of the President as laid down in the Constitution: the Senate must coöperate with the President in treaty-making, and declarations of war and grants of letters of marque and reprisal must be made by Congress. A declaration of neutrality, he argued, did not, however, fall under either of those exceptions. It is the duty of the President to preserve peace until war is declared, and to exercise this duty he must necessarily construe treaty obligations.

Those who object to the proclamation will readily admit that it is the right and duty of the executive to interpret those articles of our treaties which give to France particular privileges, in order to the enforcement of them; but the necessary consequence of this is that the executive must judge what are their proper limits; what rights are given to other nations by our contracts with them; what rights the law of nature and nations gives and our treaties permit, in respect to those countries with which we have none; in fine, what are the reciprocal rights and obligations of the United States, and of all and each of the powers at war.

In the case of France, if there had been a treaty of alliance, *offensive and defensive*, between the United States and that country, the unqualified acknowledgment of the new government would have put the United States in a condition to become an *associate in the war* with France, and would have laid the legislature under an obligation, if required, and there was otherwise no valid excuse, of exercising its power of declaring war.

This serves as an example of the right of the executive, in certain cases, to determine the condition of the nation, though it may, in its consequences, affect the exercise of the power of the legislature to declare war. Nevertheless, the executive cannot thereby control the exercise of that power. The legislature is still free to perform its duties, according to its own sense of them; though the executive, in the exercise of its constitutional powers, may establish an antecedent state of things, which ought to weigh in the legislative decisions.

The division of the executive power in the Constitution creates a *concurrent* authority in the cases to which it relates.

Hence treaties can be made only by the President and Senate jointly; but their activity may be continued or suspended by the President alone.

No objection has been made to the President's having acknowledged the republic of France by the reception of its minister without having consulted the Senate; though that body is

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a nation made prior to the existing quarrel between that nation and a third nation could be fulfilled without violating the law of neutrality, even though these were to furnish *determinate* succors of ships or troops in case of war, but that succors *not stipulated* in the treaty would be such a violation.

He conceded that execution of the clause of guaranty in the eleventh article of our treaty with France would engage us with our whole force as an *auxiliary* of France in the present war.

It becomes necessary, therefore, to examine whether the United States would have a valid justification for not complying with it in case of their being called upon for that purpose by France.

The alliance between the United States and France is of the defensive kind. The words of that article are as follows: "The essential and direct end of the present defensive alliance is to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the United States, as well in matters of government as of commerce."

The leading character then of our alliance with France being defensive, it will follow that the meaning, obligation, and force of every stipulation in the treaty must be tested by the principles of such an alliance; unless in any instance terms have been used which clearly and unequivocally denoted a different intent.

The principal question consequently is: what is the nature and effect of a defensive alliance? When does the *casus fœderis* (state of alliance) take place in relation to it?

Reason, the concurring opinions of writers, and the practice of nations will all answer: "When either of the allies is *attacked*, when war is *made upon him*, not when he *makes war upon another*;" in other words, the stipulated assistance is to be given "when our ally is engaged in a defensive, not when he is engaged in an offensive war." This obligation to assist only in a defensive war constitutes the essential difference between an alliance which is merely defensive, and one which is both offensive and defensive. In the latter case there is an obligation to coöperate as well when the war, on the part of our ally, is of the latter as when it is of the former description. To affirm, therefore, that the United States are bound to assist France in the war in which she is at present engaged will be to convert our treaty with her into an alliance offensive and defensive, contrary to the express declaration of the instrument itself.

Now the war in question is an *offensive* war on the part of France, in that she first declared and began the war.

Upon this point there is apt to be some incorrectness of ideas. Those who have not examined subjects of such a nature are led to imagine that the party which commits the first injury, or gives the first provocations, is on the offensive side, though hostilities are actually begun by the other party.

But the cause or the occasion of the war, and the war itself, are things entirely distinct. It is the commencement of the war itself which decides the question whether it be offensive or defensive. All writers on the laws of nations agree in this doctrine; but it is most accurately laid down in the following extracts from Bulemaqui (Vol. II, Book IV, Chap. III, Secs. 4, 5):

"Neither are we to believe (says he) that he who first injures another begins by that an offensive war, and that the other who demands the satisfaction for the injury received is always on the defensive. There are a great many unjust acts which may kindle a war, and which, however, are not the war itself."

We must therefore affirm, in general, that the first who takes up arms, whether justly or unjustly, commences an offensive war; and he who opposes him, whether with or without reason, begins a defensive war.

France, then, being on the offensive in the present war, and our alliance with her being defensive only, it follows that the *casus faderis*, or condition of our guaranty, cannot take place; and that the United States are laid to refuse a performance of that guaranty, if demanded.

III

A third objection to the proclamation is that it is inconsistent with the gratitude due to France for the services rendered to us in our revolution.

Those who make this objection disavow, at the same time, all intention to maintain the position that the United States ought to take part in the war. They profess to be friends to our remaining at peace. What, then, do they mean by the objection?

If it be no breach of gratitude to refrain from joining France in the war, how can it be a breach of gratitude to declare that such is our disposition and intention?

Faith and justice between nations are virtues of a nature the most necessary and sacred. They cannot be too strongly inculcated, nor too highly respected. Their obligations are absolute, their utility unquestionable; they relate to objects which, with

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their prevailing one; and that either to ascribe to them a different principle of action or to deduce, from the supposition of it, arguments for a self-denying and self-sacrificing gratitude on the part of a nation, which may have received from another good offices, is to misrepresent or misconceive what usually are, and ought to be, the springs of national conduct.

Mr. Hamilton then examined the case of France's aid to the United States to see if it was *disinterested*, and therefore calling for gratitude on our part.

The dismemberment of this country from Great Britain was an obvious and a very important interest of France. It cannot be doubted that it was both the determining motive and an adequate compensation for the assistance afforded to us.

The inference from these facts is not obscure. Aid and co-operation, founded upon a great interest, pursued and obtained by a party rendering them, is not a proper stock upon which to engraft that enthusiastic gratitude which is claimed from us by those who love France more than the United States.

This view of the subject, extorted by the extravagancy of such a claim, is not meant to disparage the just pretensions of France to our good-will and acknowledgment of the favor.

But these sentiments are satisfied on the part of our nation when they produce a cordial disposition to render all good and friendly offices which can be rendered without prejudice to its own solid and permanent interests.

To ask of a nation so situated as we are to make a sacrifice of substantial interest; to expose itself to the jealousy, ill-will, or resentment of the rest of the world; to hazard, in an eminent degree, its own safety, would be to ask more than the nature of the case demands, more than the fundamental maxims of society authorize, more than the dictates of sound reason justify.

A question has arisen with regard to the proper object of that gratitude which is so much insisted upon: whether it be the unfortunate prince by whom the assistance received was given; or the nation of whom he was the chief or the organ? It is extremely interesting to the national justice to form right conceptions on this point.

The arguments which support the latter idea are as follows:

"Louis XVI was but the constitutional agent of the French people. He acted for and on behalf of the nation; it was with their money and their blood he supported our cause. It is to them, therefore, not to him, that our obligations are due.

probity and sincerity, generally admit of being brought within clear and intelligible rules.

But the same cannot be said of gratitude. It is not very often that between nations it can be pronounced with certainty that there exists a solid foundation for the sentiment; and how far it can justifiably be permitted to operate is always a question of still greater difficulty.

The basis of gratitude is a benefit received or intended, which there was no right to claim, originating in a regard to the interest or advantage of the party on whom the benefit is, or is meant to be, conferred. If a service is rendered from views relative to the immediate interest of the party who performs it, and is productive of reciprocal advantages, there seems scarcely in such a case to be an adequate basis for a sentiment like that of gratitude. The effect at least would be wholly disproportioned to the cause if such a service ought to beget more than a disposition to render in turn a correspondent good office, founded on mutual interest and reciprocal advantage. But gratitude would require much more than this; it would exact to a certain extent even a sacrifice of the interest of the party obliged to the service or benefit of the one by whom the obligation had been conferred.

Between individuals acts of gratitude not unfrequently occur. But among nations they perhaps never occur. It may be affirmed, as a general principle, that the predominant motive of good offices from one nation to another is the interest or advantage of the nation which performs them.

Indeed, the rule of morality in this respect is not precisely the same between nations as between individuals. The duty of making its own welfare the guide of its actions is much stronger upon the former than upon the latter; in proportion to the greater magnitude and importance of national compared with individual happiness, and to the greater permanency of the effect of national than of individual conduct. Existing millions, and for the most part future generations, are concerned in the present measures of a government; while the consequences of the private actions of an individual ordinarily terminate with himself or are circumscribed within a narrow compass. Rulers are only trustees for the happiness and interest of their nation, and cannot, consistently with their trust, follow the suggestions of kindness or humanity toward others to the prejudice of their constituents.

It is not here meant to recommend a policy absolutely selfish in nations; but to show that a policy regulated by their own interest, as far as justice and good faith permit, is and ought to be

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Louis XVI, in taking our part, was no doubt actuated by state policy. An absolute prince could not love liberty. But the people of France patronized our cause with zeal, from sympathy in its object. The people, therefore, not its monarch, are entitled to our sympathy."

This reasoning may be ingenious; but it is not founded in nature or fact.

Louis XVI, though no more than the constitutional agent of the nation, had at the time the sole power of managing its affairs, the legal right of directing its will and its force. It belonged to him to assist us, or not, without consulting the nation; and he did assist without such consultation. His will alone was active; that of the nation passive. If there was kindness in the decision, demanding a return of good-will, it was the kindness of Louis XVI—his heart was the depository of the sentiment.

But Louis XVI, it is said, acted from reasons of state, without regard to our cause; while the people of France patronized it with zeal and attachment.

With regard to the individual good wishes of the citizens of France, as they did not produce the services rendered to us as a nation, they can be no foundation for national gratitude. They can only call for a reciprocation of individual good wishes. They cannot form the basis of public obligation.

Our cause had also numerous friends in other countries; even in that with which we were at war. Conducted with prudence, moderation, justice, and humanity, it may be said to have been a popular cause among mankind, conciliating the countenance of princes and the affection of nations.

The dispositions of the individual citizens of France can therefore in no sense be urged as constituting a peculiar claim to our gratitude. As far as there is foundation for it it must be referred to the services rendered to us; and, in the first instance, to the unfortunate monarch that rendered them. This is the conclusion of nature and reason.

IV

The remaining objection to the proclamation of neutrality is that it was out of time and unnecessary.

To give color to this objection it is asked, why did not the proclamation appear when the war commenced with Austria and Prussia? Why was it forborne till Great Britain, Holland, and Spain became engaged? Why did not the Government wait till the arrival at Philadelphia of the minister of the French repub-

lie? Why did it volunteer a declaration not required of it by any of the belligerent parties?

Austria and Prussia are not maritime powers. Contraventions of neutrality as against them were not likely to take place to any extent, or in a shape that would attract their notice. It would therefore have been useless, if not ridiculous, to have made a formal declaration on the subject while they were the only parties opposed to France.

But the reverse of this is the case with regard to Spain, Holland, and England. These are all commercial and maritime nations. It was to be expected that their attentions would be immediately drawn toward the United States with sensibility, and even with jealousy. It was to be feared that some of our citizens might be tempted by the prospect of gain to go into measures which would injure them and hazard the peace of the country. Attacks by some of these powers upon the possessions of France in America were to be looked for as a matter of course. While the views of the United States, as to that particular, were problematical, they would naturally consider us as a power that might become their enemy. This they would have been the more apt to do on account of those public demonstrations of attachment to the cause of France of which there has been so prodigal a display.

It was therefore of great importance that our own citizens should understand as soon as possible the opinions which the Government entertained of the nature of our relations to the warring parties, and of the propriety or expediency of our taking a side or remaining neuter. The arrangements of our merchants could not but be very differently affected by the one hypothesis or the other; and it would necessarily have been very detrimental and perplexing to them to have been left in uncertainty.

The idea of its having been incumbent on the Government to delay the measure for the arrival of the minister of the French republic is as absurd as it is humiliating. Did the executive stand in need of the logic of a foreign agent to enlighten it as to the duties or interests of the nation? Or was it bound to ask his consent to a step which appeared to itself consistent with the former and conducive to the latter?

The sense of our treaties was to be learned from the instruments themselves. It was not difficult to pronounce beforehand that we had a greater interest in the preservation of peace than in any advantages with which France might tempt our participation in the war.

"friend of the Constitution," a lover of peace, and one who deeply respected the President.

Madison then proceeded to attack the arguments of "Pacifcus."

The basis of his reasoning is the extraordinary doctrine that the powers of making war and treaties are in their nature *executive*; and therefore comprehended in the general grant of executive power, where not especially and strictly excepted out of the grant.

If there be any countenance to this position it must be found either, first, in the writers of authority on public law; or, 2d, in the quality and operation of the powers to make war and treaties; or, 3d, in the Constitution of the United States.

1. All writers on international law, particularly Wolsius, Bulemaqui, and Vattel, speak of the powers to declare war, to conclude peace, and to form alliances as among the highest acts of the sovereignty, of which the legislative power must at least be an integral and preëminent part.

2. The natural province of the executive magistrate is to execute laws, as that of the legislature is to make laws. All his acts, therefore, properly executive, must presuppose the existence of the laws to be executed. A treaty is not an execution of laws: it does not presuppose the existence of laws. It is, on the contrary, to have itself the force of a law, and to be carried into execution, like all other laws, by the executive magistrate. To say, then, that the power of making treaties, which are confessedly laws, belongs naturally to the department which is to execute laws is to say that the executive department naturally includes a legislative power. In theory this is an absurdity—in practice a tyranny.

The power to declare war is subject to similar reasoning. A declaration that there shall be war is not an execution of laws: it does not suppose preëxisting laws to be executed: it is not, in any respect, an act merely executive. It is, on the contrary, one of the most deliberate acts that can be performed; and when performed has the effect of *repealing* all the laws operating in a state of peace, so far as they are inconsistent with a state of war; and of *enacting, as a rule for the executive, a new code* adapted to the relation between the society and its foreign enemy. In like manner, a conclusion of peace *annuls* all the laws peculiar

There has been an additional criticism, several times repeated, which may deserve a moment's attention. It has been urged that the proclamation ought to have contained some reference to our treaties; and that the generality of the promise to observe a conduct *friendly and impartial* toward the belligerent powers ought to have been qualified with expressions equivalent to these, "*as far as may consist with the treaties of the United States.*"

The insertion of such a clause would have entirely defeated the object of a proclamation by rendering the intention of the Government equivocal. That object was to assure the powers at war and our own citizens that, in the opinion of the executive, it was consistent with the duty and interest of the nation to observe neutrality, and that it was intended to pursue a conduct corresponding with that opinion. Words equivalent to those contended for would have rendered the other part of the declaration nugatory, by leaving it uncertain whether the executive did or did not believe a state of neutrality to be consistent with our treaties. Neither foreign powers nor our own citizens would have been able to have drawn any conclusion from the proclamation; and both would have had a right to consider it as a mere equivocation.

By not inserting any such ambiguous expressions, the proclamation was susceptible of an intelligible and proper construction. While it denoted on the other hand that, in the judgment of the executive, there was nothing in our treaties obliging us to become a party in the war; it left it to be expected, on the other, that all stipulations compatible with neutrality, according to the laws and usages of nations, would be enforced. It follows that the proclamation was, in this particular, exactly what it ought to have been.

ARGUMENT OF MADISON

Madison began his reply by justifying his entrance into a controversy with one who was "despised by the steady friends" of "our republican Government and the French Revolution" on the ground that it was necessary to expose "Pacifcus's" insidious presentation of "principles which strike at the vitals of the Constitution" under color of "vindicating an important public act of a chief magistrate who enjoys the confidence and love of his country."

For himself "Helvidius" declared that he was a

to a state of war, and *revives* the general laws incident to a state of peace.

These remarks will be strengthened by adding that treaties, particularly treaties of peace, have sometimes the effect of changing not only the external laws of the society, but operate also on the internal code, which is purely municipal, and to which the legislative authority of the country is of itself competent and complete.

From this view of the subject it must be evident that, although the executive may be a convenient organ of preliminary communications with foreign governments on the subjects of treaty or war: and the proper agent for carrying into execution the final determinations of the competent authority; yet it can have no pretensions, from the nature of the powers in question compared with the nature of the executive trust, to that essential agency which gives validity to such determinations.

It must be further evident that, if these powers be not in their nature purely legislative, they partake so much more of that than of any other quality that, under a constitution leaving them to result to their most natural department, the legislature would be without a rival in its claim.

Another important inference to be noted is that, the powers of making war and treaty being substantially of a legislative, not an executive, nature, the rule of interpreting exceptions strictly must *narrow*, instead of enlarging, executive pretensions on those subjects.

3. The Constitution does not explicitly give the President power to make war and peace. On the contrary this power is expressly lodged in Congress, and, since the Constitution was framed with the specific purpose of separating the three branches of government, the spirit of that instrument, as well as the letter, is against the use of such power by the executive.

The power of treaties is vested jointly in the President and in the Senate, which is a branch of the legislature. From this arrangement merely, there can be no inference that would necessarily exclude the power from the executive class, since the Senate is joined with the President in another power, that of appointing to offices, which, as far as relates to executive offices at least, is considered as of an executive nature. Yet, on the other hand, there are sufficient indications that the power of treaties is regarded by the Constitution as materially different from mere executive power, and as having more affinity to the legislative than to the executive character.

One circumstance indicating this is the constitutional regu-

lation under which the Senate give their consent in the case of treaties. In all other cases the consent of the body is expressed by a majority of voices. In this particular case a concurrence of *two-thirds* at least is made necessary as a substitute or compensation for the other branch of the national legislature, which, on certain occasions, could not be conveniently a party to the transaction.

But the conclusive circumstance is that treaties, when formed according to the constitutional mode, are confessedly to have the force and operation of *laws*, and are to be a rule for the courts in controversies between man and man as much as any *other laws*. They are even emphatically declared by the Constitution to be "the supreme law of the land."

So far the argument from the Constitution is precisely in opposition to the doctrine. As little will be gained in its favor from a comparison of the two powers with those particularly vested in the President alone.

The President shall be commander-in-chief of the army and navy of the United States, and of the militia when called into the actual service of the United States.

There can be no relation worth examining between this power and the general power of making treaties. And instead of being analogous to the power of declaring war it affords a striking illustration of the incompatibility of the two powers in the same hands. Those who are to *conduct a war* cannot, in the nature of things, be proper or safe judges, whether a war *ought to be commenced, continued or concluded*. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

"He shall take care that the laws shall be faithfully executed, and shall commission all officers of the United States." To see the laws faithfully executed constitutes the essence of the executive authority. But what relation has it to the power of making treaties and war, that is, of determining what the *laws shall be* with regard to other nations? No other certainly than what subsists between the powers of executing and enacting laws, no other consequently than what forbids a coalition of the powers in the same department.

Thus it appears that by whatever standard we try this doctrine it must be condemned as no less vicious in theory than it would be dangerous in practice. It is countenanced neither by the writers on law, nor by the nature of the powers themselves,

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includes the right to judge whether the United States be obliged to declare war or not. Can the inference be avoided that the executive, instead of having a similar right to judge, is as much excluded from the right to judge as from the right to declare?

Whatever difficulties may arise in defining the executive authority in particular cases there can be none in deciding on an authority clearly placed by the Constitution in another department. In this case the Constitution has decided what shall not be deemed an executive authority; though it may not have clearly decided in every case what shall be so deemed. The declaring of war is expressly made a legislative function. The judging of the obligations to make war is admitted to be included as a legislative function. Whenever, then, a question occurs whether war shall be declared or whether public stipulations require it, the question necessarily belongs to the department to which those functions belong—and no other department can be in the *execution of its proper functions* if it should undertake to decide such a question.

There can be no refuge against this conclusion, but in the pretext of a *concurrent* right in both departments to judge of the obligations to declare war; and this must be intended by the writer when he says, "It will not follow that the executive is excluded in any case from a *similar right of judging*," etc.

As this is the ground on which the ultimate defence is to be made, and which must either be maintained or the works erected on it demolished, it will be proper to give its strength a fair trial.

It has been seen that the idea of a *concurrent* right is at variance with other ideas advanced or admitted by the writer. Laying aside, for the present, that consideration, it seems impossible to avoid concluding that, if the executive, as such, has a concurrent right with the legislature to judge of obligations to declare war, and the right to judge be essentially included in the right to declare, it must have the same concurrent right to declare as it has to judge; and, by another analogy, the same right to judge of other causes of war as of the particular cause found in a public stipulation. So that, whenever the executive, in the *course of its functions*, shall meet with these cases, it must either infer an equal authority in all or acknowledge its want of authority in any.

A concurrent authority in two independent departments, to perform the same function with respect to the same thing, would be as awkward in practice as it is unnatural in theory.

If the legislature and executive have both a right to judge of

nor by any general arrangement or particular expressions or plausible analogies to be found in the Constitution.

Whence then can the writer have borrowed it?

There is but one answer to the question.

The power of making treaties and the power of declaring war are *royal prerogatives* in the *British Government*, and are accordingly treated as *executive prerogatives* by *British commentators*.

Madison then shrewdly quoted a passage from one of Hamilton's letters in "The Federalist" (No. 75) as contradictory of the position taken by "Pacifcus." It was a "secret of Punch" who "Pacifcus" was, but Madison, using an opportunity which is unique in the annals of debate, assumed that "Pacifcus" and Hamilton are different persons, and confuted the one by the other.

This number of "The Federalist" (see Vol. I, page 401), expressly refuted the general idea that treaty-making was an executive power, and showed that it was a distinct department of government, the legislature having part in it because of the operation of treaties as laws, and the executive, because these treaties were to be enforced.

"However true it may be" (says "Pacifcus") "that the right of the legislature to declare war *includes the right of judging* whether the legislature be under obligations to make war or not, it will not follow that the executive is in any case excluded from a *similar right of judging* in the execution of its own functions."

A material error of the writer in this application of his doctrine lies in his shrinking from its regular consequences. Had he stuck to his principle in its full extent, and reasoned from it without restraint, he would only have had to defend himself against his opponents. By yielding the great point that the right to declare war, *though to be taken strictly*, includes the right to judge whether the nation be under obligations to make war or not, he is compelled to defend his argument not only against others, but against himself also. Observe how he struggles in his own toils.

He had before admitted that the right to declare war is vested in the legislature. He here admits that the right to declare war

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the obligations to make war or not, it must sometimes happen, though not at present, that they will judge differently. The executive may proceed to consider the question to-day; may determine that the United States are not bound to take part in a war, and in the *execution of its functions* proclaim that determination to all the world. To-morrow the legislature may follow in the consideration of the same subject; may determine that the obligations impose war on the United States, and, in the *execution of its functions*, enter into a *constitutional declaration*, expressly contradicting the *constitutional proclamation*.

In what light does this present the Constitution to the people who established it? In what light would it present to the world a nation thus speaking, through two different organs, equally constitutional and authentic, two opposite languages, on the same subject, and under the same existing circumstances?

But it is not with the legislative rights alone that this doctrine interferes. The rights of the judiciary may be equally invaded. For it is clear that if a right declared by the Constitution to be legislative, and actually vested by it in the legislature, leaves, notwithstanding, a similar right in the executive, whenever a case for exercising it occurs, in the *course of its functions*; a right declared to be judiciary and vested in that department may, on the same principles, be assumed and exercised by the executive in the *course of its functions*; and it is evident that occasions and pretexts for the latter interference may be as frequent as for the former. So again the judiciary department may find equal occasions in the execution of its functions for usurping the authorities of the executive; and the legislature for stepping into the jurisdiction of both. And thus all the powers of government, of which a partition is so carefully made among the several branches, would be thrown into absolute hatchpot, and exposed to a general scramble.

It is certain that a faithful execution of the laws of neutrality may tend as much in some cases to incur war from one quarter as in others to avoid war from other quarters. The executive must nevertheless execute the laws of neutrality while in force, and leave it to the legislature to decide whether they ought to be altered or not. The executive has no other discretion than to convene and give information to the legislature on occasions that may demand it; and while this discretion is duly exercised the trust of the executive is satisfied, and that department is not responsible for the consequences. It could not be made responsible for them without vesting it with the legislative as well as with the executive trust.

In reply to the position of "Pacifus" that the right of the President to receive foreign ministers implies the right of recognizing, in the case of a revolution, the new government, "Helvidius" again quoted the "great constitutional authority," Hamilton, to the contrary. No. 69 of "The Federalist," written by Hamilton, says that this right is "more a matter of dignity than authority."

It is a circumstance, that will be *without consequence* in the administration of the Government, and it is far more convenient that it should be arranged in this manner than that there should be a necessity for convening the legislature or one of its branches upon every arrival of a foreign minister, though it were merely to take the place of a departed predecessor.

"Helvidius" comments on this as follows:

Had it been foretold in the year 1788, when this work was published, that, before the end of the year 1793, a writer, assuming the merit of being a friend to the Constitution, would appear and gravely maintain that this function, which was to be *without consequence* in the administration of the Government, might have the consequence of deciding on the validity of revolutions in favor of liberty, "of putting the United States in a condition to become an associate in war" . . . nay, "of laying the legislature under an obligation of declaring war," what would have been thought and said of so visionary a prophet?

Against "Pacifus's" inference that the executive has a right to give or refuse operation to preëxisting treaties, because of a change in the government of the foreign party, he quotes Burlamaqui, part IV, c. IX, § 16, ¶ 6, to show that a nation, by exercising the right of changing the organ of its will, even so far as from a monarchy to a republic, or *vice versa*, can neither disengage itself from the obligations, nor forfeit the benefits of its treaties.

"Helvidius" thus concludes the constitutional portion of his argument:

In no part of the Constitution is more wisdom to be found than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the

ward itself required to be alleviated by all the circumspection and delicacy that could be applied to the occasion.

Notwithstanding Madison's arguments the proclamation of neutrality was approved by the American people as a whole, chiefly out of respect for Washington, and thus it became a strong precedent for similar action in similar cases by subsequent Presidents.

objection to such a mixture of heterogeneous powers, the trust and the temptation would be too great for any one man; not such as nature may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is in fact the true nurse of executive aggrandizement. In war a physical force is to be created; and it is the executive will which is to direct it. In war the public treasures are to be unlocked; and it is the executive hand which is to disburse them. In war the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered; and it is the executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast: ambition, avarice, vanity, the honorable or venial love of fame are all in conspiracy against the desire and duty of peace.

Hence it has grown into an axiom that the executive is the department of power most distinguished by its propensity to war: hence it is the practice of all states, in proportion as they are free, to disarm this propensity of its influence.

Upon the specific instance of the executive's encroachment upon legislative and judicial powers in his proclamation of neutrality "Helvidius" observes that the President must have been ill-advised by some one inimical to France, and regardless of the benefits which were accruing to our young republic from the friendship of that country, and were on the point of vastly increasing.

A greater error could not have been committed than in a step that might have turned the present disposition of France to open her commerce to us as far as a liberal calculation of her interest would permit, and her friendship toward us, and confidence in our friendship toward her, could prompt, into a disposition to shut it as closely against us as the united motives of interest, of distrust, and of ill will could urge her.

On the supposition that France might intend to claim the guaranty, a hasty and harsh refusal before we were asked, on a ground that accused her of being the aggressor in the war against every power in the catalogue of her enemies, and in a crisis when all her sensibility must be alive toward the United States, would have given every possible irritation to a disappointment which every motive that one nation could feel toward another and to-

CHAPTER II

COMMERCIAL TREATY WITH GREAT BRITAIN (JAY'S TREATY)

John Jay's Treaty with Great Britain—Popular Opposition—Washington's Reply—His Letter to Secretary Edmund Randolph—Objections of the French Minister—Randolph's Reply—Resolution of Edward Livingston [N. Y.] Calling on the President for the Correspondence Relating to the Treaty—Debate: in Favor, James Madison [Va.] and Albert Gallatin [Pa.]—Washington Refuses to Submit Correspondence—Resolution of Theodore Sedgwick [Mass.] Calling for Action by the House to Carry into Effect the Treaty—Debate: in Favor, William V. Murray, [Md.] Fisher Ames [Mass.]; Opposed, William B. Giles [Va.]—Letters of "Camillus" [Alexander Hamilton, Rufus King, and John Jay]—Treaty Is Passed.

BEFORE the outbreak of the French Revolution negotiations for a commercial treaty had been proceeding between the United States and Great Britain.

The British Government had promised to send a representative to America, but made evasive answers as to the treaty, intimating that the British people were offended by the Americans giving preference to their own ships in tonnage dues, etc.

The war with France, which soon after arose, compelled an abandonment of these negotiations. Great Britain and Holland, in order to compel the French to submit to their terms, in June, 1793, went to the extreme and extraordinary measure of ordering warships and privateers to stop vessels bearing corn, flour, or meal to French ports, and to sell the cargoes in British or friendly ports. Notwithstanding remonstrances on the part of the United States, the orders were rigidly enforced, and English ports were soon filled with American vessels, originally bound to France.

JAY'S MISSION TO GREAT BRITAIN

On April 16, during a discussion of non-intercourse with Great Britain, the President nominated John Jay as minister extraordinary to the British court. Jay's nomination was approved in the Senate.

The two great and primary objects of this mission were the cessation of the vexations and spoliations committed on American commerce under British orders and the adjustment of all differences concerning the treaty of peace. Should these points "be so accommodated as to promise the continuance of tranquility between the United States and Great Britain," "the subject of a commercial treaty," according to Mr. Jay's instructions, "might then be listened to, or even broken to the British Ministry."

Aware that the British Government might wish to detach the United States from France, and even make some overtures of that kind, Mr. Jay was specially instructed to say "that the Government of the United States would not derogate from their treaties and engagements with France."

On the 19th of November, 1794, Mr. Jay concluded and signed with Lord Grenville "a treaty of amity, commerce, and navigation between His Britannic Majesty and the United States." It was received by the President on the 7th of March, 1795, and on the 8th of June was submitted to the Senate, and on the 24th of the same month that body advised its ratification, with the exception of the 12th article, relating to the West India trade. This interesting subject occasioned violent debates in the Senate, and the treaty itself was finally sanctioned in that body (excluding the article relating to the West India trade) by a bare constitutional majority, twenty against ten.

TERMS OF THE TREATY

The western military posts were to be surrendered to the United States on or before the first of June, 1796, but no compensation was made for negroes carried away

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West India Islands in American vessels not above the burden of seventy tons, and in goods or merchandise of the growth, manufacture, or produce of the States, and in the productions of the islands, but the United States were restrained from carrying molasses, sugar, coffee, cocoa, or cotton either from the islands or from the United States to any part of the world.

As a considerable quantity of cotton at that time was produced in the Southern States, and had then begun to be exported, and the quantity would probably increase, the twelfth article was excluded. The American negotiator, it was said, was then ignorant that cotton of the growth of the United States had or would become an article of export.¹

A reciprocal liberty of commerce and navigation between the United States and the British dominions in Europe was established, neither to be subject to higher duties than other nations, the British Government reserving the right of countervailing the American foreign duties. And American vessels were freely admitted into the ports of the British territories in the East Indies, but not to carry on the coasting trade.

Timber for shipbuilding and material such as tar, sails, copper, etc., for the equipment of vessels were included in the list of contraband. With respect to provisions and other articles, not generally contraband, on "account of the difficulty of agreeing on the precise cases in which they should be regarded as such," and for the purpose of providing against the inconveniences and misunderstandings which might thence arise, it was declared that whenever such articles should become contraband, according to the existing law of nations, the same should not be confiscated, but the owners be completely indemnified by the captors or the Government.

¹ Eli Whitney (1765-1825), of Massachusetts, a Yale graduate, went to Georgia to teach on the plantation of the widow of General Greene. At her request he invented in 1793 the saw cotton gin for separating the seed from the fiber. Within a year or so it had enormously increased the crop. Thus in 1791 only 189,316 pounds were exported, and in 1800, 17,789,803 pounds. It made the labor of slaves exceedingly profitable in the "cotton States," and so prevented that gradual emancipation which the Fathers of the country had hoped for.

by the British commander after the peace of 1783. The United States were to compensate British creditors for losses occasioned by legal impediments to the collection of debts, contracted before the Revolutionary War, to be settled and adjusted by commissioners, and Great Britain was to make compensation to American merchants for illegal captures of their property, to be adjusted also in the same mode. Provision was also made for ascertaining more accurately the boundaries between the United States and the British North American possessions.

British subjects holding lands in the territories of the United States and American citizens holding lands in the British dominions were to continue to hold them, according to the nature and tenure of their respective estates and titles therein, with power to sell, grant, or devise the same, and by the tenth article it was expressly provided that neither the debts due from individuals of the one nation to individuals of the other, nor shares or moneys in the public funds, or in the public or private banks, should in any event of war or national differences be sequestered or confiscated, "it being unjust and impolitic," as asserted in this article, "that debts and engagements contracted and made by individuals having confidence in each other and in their respective governments should ever be destroyed or impaired by national authority on account of national differences and discontents."

Both parties had liberty to trade with the Indians in their respective territories in America (with the exception of the country within the limits of the Hudson Bay Company), and the river Mississippi was to be also open to both nations.

The ten first articles principally embracing these important subjects were made permanent.

The other eighteen articles related to the future intercourse between the two countries, and in their duration were limited to twelve years, or two years after the termination of the war in which the British nation was then engaged. By the twelfth article a direct trade was permitted between the United States and the British

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Prizes made by ships of war and privateers of either party might enter and depart from the ports of each other without examination, and no shelter or refuge was allowed to such vessels as had made a prize upon the subjects or citizens of the parties. Nothing, however, in the treaty was to operate contrary to former and existing treaties with other nations.

Mr. Jay was unable to obtain a stipulation that free ships should make free goods. It was hardly to be expected that Great Britain in time of war would consent to any relaxation of the rigid rule of law on this subject.

These are the principal features of a treaty which gave such high offence to the rulers of France and created such divisions in the United States as to put in jeopardy the Government itself.

Unfortunately it left the important question with respect to provisions being contraband as it found it, resting on the existing law of nations, but Mr. Jay, to whom had been assigned a most difficult as well as most delicate task, in a private letter to the President on the subject of the treaty, said, "to do more was impossible." He also added, "I ought not to conceal from you that the confidence reposed in your personal character was visible and useful throughout the negotiations."

The treaty was approved by Thomas Pinckney, the resident Minister at the court of London. In his letter to the Secretary of State he observed, "although some points might have been arranged more beneficially for us, if the treaty had been dictated entirely by the United States, yet when it is considered as a composition of differences where mutual complaints had rendered mutual concessions necessary to establish a good understanding, I think it may fairly be said that as little has been conceded by Mr. Jay, and as much obtained for the United States as, under all circumstances considered, could be expected."

This treaty was the first with any foreign power under the new Government. Treaties had only been formed with the Indian tribes, and in these instances, as well as in the instance of an attempt to obtain the release of American prisoners by a treaty with the

regency of Algiers, the President had in person attended the Senate and requested their advice as to the terms he was about to propose. In this mode of proceeding serious difficulties had arisen, and on reconsideration it had been deemed most consistent with the Constitution not to consult the Senate in a formal manner until a treaty had actually been made. The Senate, therefore, in this instance were not previously consulted by the President as to the terms of a treaty with Great Britain. This has ever since been considered the true construction of the Constitution, and the course then adopted has been invariably pursued.

POPULAR OPPOSITION TO TREATY

Although secrecy was enjoined, yet one member of the Senate, soon after that body had advised its ratification, caused the treaty to be published in one of the public newspapers in Philadelphia, and it immediately became a subject of discussion.

Many of the opponents of the administration were prepared to pronounce the treaty's condemnation. Meetings of the citizens were held on the subject, and such was the state of public feeling against Great Britain that the passions, rather than the understandings, of the people were addressed, and resolutions were passed and presented to the President condemning the treaty in the most unqualified manner, and requesting him to withhold his assent.

WASHINGTON'S REPLY

Washington's answer disclosed the course he intended to pursue—a course alike firm and dignified. After stating that in every act of his administration he had sought the happiness of his fellow citizens, and that to obtain this object, overlooking all local, partial, or personal considerations, he had contemplated the United States as one great whole, and trusting that sudden impressions, when erroneous, would yield to candid reflection, he had consulted only the substantial and permanent interests of his country, he said:

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partizans of France (or rather of war and confusion) will excite them to hostile measures; or, at least, to unfriendly sentiments. If it is not, there is no foreseeing all the consequences that may follow, as it respects Great Britain. It is not to be inferred from this that I am, or shall be, disposed to quit the ground I have taken; unless circumstances, more imperious than have yet come to my knowledge, shall compel it; for there is but one straight course in these things, and that is to seek truth and pursue it steadily."

OBJECTIONS OF THE FRENCH MINISTER

The treaty was ratified on August 14 on the terms proposed by the Senate.

In the negotiations with Great Britain perfect good faith was observed toward France. The French Minister, M. Adet, had been informed that Mr. Jay had instructions not to weaken the engagements with his nation. A copy of the treaty was also submitted to M. Adet by direction of the President with a request that he would state his objections. On the 30th of June he, in a note to the Secretary of the State, referred to such parts as appeared to him to destroy the effect of the treaty with France. The stipulations referred to were those which made contraband of war of naval stores excluded from that list in the French treaty, which subjected to seizure enemy's property in neutral bottoms, and admitted prizes in American ports. To the first and second the American secretary immediately answered that naval stores were contraband by the law of nations, that by the same law enemy's property in neutral bottoms was good prize, and that on these points Great Britain could not be prevailed upon to relax, and with respect to the admission of prizes into American ports this privilege did not extend to those made from the French during the present or any future war because contrary to the existing treaty with France.

PETITIONS AGAINST THE TREATY

On the first of March the President informed Congress by message that the treaty with Great Britain had

"Without a predilection for my own judgment I have weighed with attention every argument which has, at any time, been brought into view. But the Constitution is the guide which I never can abandon. It has assigned to the President the power of making treaties, with the advice and consent of the Senate. It was doubtless supposed that these two branches of government would combine without passion, and with the best means of information, those facts and principles upon which the success of our foreign relations will always depend; that they ought not to substitute for their own conviction the opinions of others; or to seek truth through any channel but that of a temperate and well-informed investigation. Under this persuasion I have resolved on the manner of executing the duty before me. To the high responsibility attached to it I freely submit; and you, gentlemen, are at liberty to make these sentiments known as the ground of my procedure. While I feel the most lively gratitude for the many instances of approbation from my country, I cannot otherwise deserve it than by obeying the dictates of my conscience."

In a letter to Edmund Randolph, who had succeeded Thomas Jefferson as Secretary of State in 1794, Washington observes:

"To be wise and temperate, as well as firm, the crisis most eminently calls for; for there is too much reason to believe, from the pains which have been taken before, at, and since the advice of the Senate respecting the treaty, that the prejudices against it are more extensive than is generally imagined. This, from men who are of no party, but well disposed to the Government, I have lately learned is the case. How should it be otherwise? when no stone has been left unturned that would impress the people's minds with the most arrant misrepresentations of facts—that their rights have not only been *neglected*, but absolutely *sold*—that there are no reciprocal advantages in the treaty; that the benefits are all on the side of Great Britain; and, what seems to have more weight than all the rest, and has been most pressed, is, that this treaty is made with a design to oppress the French, in open violation of a treaty with that nation, and contrary, too, to every principle of gratitude and sound policy. In time when passion shall have yielded to sober reason the current may possibly turn; but, in the meanwhile, this Government, in relation to France and England, may be compared to a ship between the rocks of Scylla and Charybdis. If the treaty is ratified the

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been duly ratified, that he had directed it to be promulgated, and had transmitted a copy thereof for their information. This important subject in various ways occupied the attention of the House for a great part of the remainder of the session. Soon after its ratification by the President was known, petitions against it were circulated throughout the United States for signatures. These petitions, all couched in the same language, were addressed to the House of Representatives. The petitioners after stating that certain stipulations in the treaty tended to involve their country in the political intrigues of European nations, to infract the treaty of alliance with France, and to produce the sad spectacle of war between that magnanimous republic and the republic of the United States proceeded to declare that many of its stipulations were manifest encroachments on the constitutional powers of Congress. They presented the following instances of such encroachments:

1. The regulation of commerce with foreign nations.
2. The regulation of trade and intercourse with the Indian tribes.
3. Regulating the territory of the United States and of individual States.
4. Establishing duties and imposts.
5. Establishing a rule of naturalization.
6. Constituting a tribunal of appeal, paramount to the supreme judicial court of the United States.
7. Changing the terms of, and establishing a rule to hold, real estate.
8. Defining piracies committed on the high seas, and declaring the punishment thereof.
9. Depriving free citizens of the privilege of the writ of habeas corpus, in the case of piracy, as defined and punished by the said treaty; and,
10. Attempting, in various other instances, to restrain and limit the legislative authority of Congress.

The petitioners in conclusion said:

"Wherefore solemnly protesting against the exercise of power by the President and Senate, in any of the foregoing cases, with-

out the concurrence of Congress, as manifestly tending to absorb all the powers of government in that department alone; to establish, as the sole rule of legislation over all the great foreign and domestic concerns of the United States, the mere will and absolute discretion of the President and Senate, in conjunction with a foreign power; and finally to overturn and effect a total change in the present happy Constitution of the United States—We most earnestly pray that the representatives of the people, in Congress assembled, will, in their wisdom, adopt such measures, touching the said treaty, as shall most effectually secure from encroachment the constitutional delegated powers of Congress, and the rights of the people, and preserve to our country an *uninterrupted continuance of the blessings of peace.*”

Many of these petitions were presented in the winter of 1796 from different parts of the Union, and laid the foundation of the proceedings of the House in relation to the treaty.

LIVINGSTON'S RESOLUTION

Before the merits of the treaty itself became a subject of debate an important preliminary question arose upon a resolution calling on the President for the instructions of Mr. Jay and the correspondence and documents relating to it. This resolution was offered by Edward Livingston (New York) on the 2nd of March, and was debated until the 24th of that month, when it passed, 62 to 37.

The principal question on this resolution was as to the constitutional power of the House in relation to treaties. Never since the adoption of the Constitution had so much talent been displayed or so much warmth manifested as in the debates on this preliminary question and on the merits of the treaty itself.

The speakers on both sides were numerous and a very wide range was taken in debate. Every article and every word in the Constitution having the least bearing on the question was critically examined and applied.

A sketch of the principal arguments is here presented.

JAY'S TREATY

occurred would make a law for themselves not affecting the general rule.

The House of Representatives were not making a Constitution, but expounding one already made, and, while they should watch with a jealous eye every encroachment on their rights by another branch of the Government, they should be cautious not to usurp power constitutionally vested in others. That the treaties referred to in the Constitution included all those usually made—treaties of peace, alliance, and commerce, and that no precise limits to this power were fixed, and from the nature of the case could not be. The people of the United States who adopted the Constitution considered their interest and rights sufficiently secured by placing this necessary and important power in the hands of the President and one branch of the legislature, and that this necessarily excluded the other legislative branch. It was well known, it was also urged, that most of the treaties usually made must necessarily include regulations concerning many objects intrusted likewise by the Constitution to legislative regulations, and, if the treaty power could not operate on these, the power itself would be reduced to very narrow limits, and no treaty with a foreign nation could be made embracing these objects, as Congress, to whom all legislative power was given, had no authority to make treaties. It was necessary, also, it was said, to consider that the legislative power and treaty power operated differently and for different purposes. The former was limited to its own jurisdiction, and could not extend to a foreign jurisdiction and government. A legislature could indeed grant privileges to foreigners within its jurisdictional limits, but could not secure reciprocal privileges in a foreign country; this could only be done with the assent of a foreign government, and this assent was not usually given except by treaty.

Treaties, being the supreme law of the land, must also, it was said, be paramount to the laws of the United States as well as the Constitution and laws of the individual States. That Congress, under the Confederation, was invested with the power of “entering into

POWER OF HOUSE OVER TREATIES

HOUSE OF REPRESENTATIVES, MARCH 2-24, 1796

In opposition to the call it was said that the Constitution in plain and explicit terms had declared that the President should have power by and with the advice and consent of the Senate to make treaties, and that all treaties made, or which should be made, under the authority of the United States should be the supreme law of the land. That the power of making treaties was an important act of sovereignty in every government, and in most countries was very properly intrusted with the executive branch. That the American Constitution had vested this power with the President in concurrence with two-thirds of the Senate. That a treaty fairly made and embracing those things which are the proper objects of compact between nations when thus assented to and duly ratified became a solemn compact binding on the United States was the supreme law of the land and ought to be carried into execution. That legislative aid or assent was not necessary to give it *validity* or *binding force*, though sometimes required agreeably to the form of our Government to carry it into complete effect. Where laws or appropriations of money were requisite for this purpose it was in all ordinary cases the duty of the legislative branch of the Government to pass such laws and make such appropriations, and that a failure so to do would be a breach of national faith, as much so as to refuse to make appropriations for the payment of a debt legally contracted.

Extraordinary cases, it was said, might occur in which the legislature might be justified in refusing its aid to carry a treaty into effect. The conduct of a nation with which the compact was made might be such after the completion of the treaty, or the stipulations in it might be so ruinous to the State, as to render it proper and even make it a duty for the legislative branch to withhold its aid. These cases, however, it was said, were not to be governed by ordinary rules, but when they

treaties and alliances” on condition “that no treaty of commerce should be made, whereby the legislative power of the respective States should be restrained from imposing such imposts and duties on foreigners as their own people were subjected to, or from prohibiting the exportation of any species of goods or commodities whatsoever.” With these exceptions the power was general, and treaties made in pursuance of it had been considered paramount to State laws without the assent of the States themselves. When some of the State laws were supposed to contravene the treaty of peace with Great Britain, Congress, in their address to the States on the subject, declared that “when a treaty was constitutionally made, ratified, and published it immediately became binding on the whole nation and superadded to the laws of the land without the intervention of State legislatures. That treaties derived their obligations from being compacts between the sovereigns of this and of another nation, whereas laws or statutes derived their force from being the acts of the legislature competent to the passing them.” They therefore unanimously “resolved that the legislatures of the several States cannot of right pass any act or acts for interpreting, explaining, or construing a national treaty, or any part or clause of it, nor for restraining, limiting, or in any manner impeding, retarding, or countervailing the operation or execution of the same, for that, on being constitutionally made, ratified, and published they become in virtue of the Confederation part of the laws of the land and are not only independent of the will and power of such legislatures, but also binding and obligatory on them.” To remove all ground of complaint, however, on the part of Great Britain, Congress recommended to the States to pass general acts repealing all laws repugnant to that treaty. That afterwards in a discussion with the British minister on this subject, Mr. Jefferson, then Secretary of State, speaking of the repealing acts of the States, said, “indeed all this was supererogation. It resulted from the instrument of confederation among the States that treaties made by Congress according to the Confederation were superior to the laws of the States.”

The opponents of the resolution also contended that the Constitution was so understood not only in the general convention, but in the State conventions which ratified that instrument, and in some of the latter this was made a strong ground of objection, particularly those of Virginia and North Carolina. One of the amendments proposed by the Virginia convention was "that no commercial treaty should be ratified without the concurrence of two-thirds of the whole number of Senators, and no treaty ceding, restraining, or suspending the territorial rights or claims of the United States, or any of their rights or claims to fishing in the American seas or navigating the American rivers, shall be, but in case of the most urgent and extreme necessity, nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively." The convention of North Carolina proposed an amendment "that no treaties which shall be directly opposed to the existing laws of the United States in Congress assembled shall be valid until such laws shall be repealed or made conformable to such treaty, nor shall any treaty be valid which is contradictory to the Constitution of the United States."

The same construction, it was said, had uniformly been given to this part of the Constitution by the House of Representatives; that various treaties had been made with the Indian tribes embracing a surrender of lands, settlement of boundaries, grants of money, etc., and when made and ratified by the President and Senate had been considered as laws of the land without the sanction of the House, and money, when necessary, had been appropriated as a matter of course; that the Constitution made no distinction between treaties with foreign nations and with Indian tribes, the same clause applying to both. And that the House, in June, 1790, declared by a resolution "that all treaties made, or which should be made and promulgated under the authority of the United States, should from time to time be published and annexed to the code of laws by the Secretary of State." That the secretaries had accordingly always annexed treaties to the laws as soon as

treaty is unconstitutional; but he would say that it was not the supreme law of the land until it received the sanction of the legislature. That the Constitution and laws made in pursuance thereof, and treaties made under the authority of the United States, are declared to be the supreme law of the land. The words are, 'under the authority of the United States,' not 'signed and ratified by the President'; so that a treaty clashing in any of its provisions with the express powers of Congress, until it has so far obtained the sanction of Congress, is not a treaty under the authority of the United States."

He also added that treaties were the supreme law of the land only when they came in competition with the Constitutions and laws of the individual States, but were not supreme or paramount to the laws of the United States, because it is declared, in the same clause of the Constitution, "and the judges in every State shall be bound thereby, anything in the Constitution and laws of any State to the contrary notwithstanding."

"It would have been childish if the Constitution had confined itself to expressing the first part of the clause, because no doubt could arise whether the Constitution, laws, and treaties were the supreme law of the land; but, as the general Government sprung out of a confederation of States, it was necessary, in order to give that Government sufficient authority to provide for the general welfare, that the laws of the Union should supersede the laws of the particular States. But the clause does not compare a treaty with the law of the United States, or either of them with the Constitution; it only compares all the acts of the Federal Government with the acts of the individual States, and declares that either of the first, whether under the name of Constitution, law, or treaty, shall be paramount to, and supersede, the Constitution and laws of the individual States."

The views of Mr. Madison on this important question were generally in accordance with those expressed by Mr. Gallatin.

MR. MADISON.—I regret that on a question of such magnitude there should be any apparent inconsistency or inexplicitness in the Constitution that could leave room for different constructions.

As the case, however, has happened, all that can be done is to examine the different constructions with accuracy and fairness, according to the rules established therefor, and to adhere to that which should be found most rational, consistent, and satisfactory.

ratified by the President and Senate and promulgated by the former.

The resolution was not only supported by the mover and others, but had the aid of all the ingenuity and talents of James Madison (Virginia) and Albert Gallatin (Pennsylvania).

MR. GALLATIN, alluding to the great constitutional question made by the opponents of the resolution, said he had hoped in that stage of the business this would have been avoided; but, as gentlemen in opposition "had come forward on that ground, he had no objection to follow them in it, and rest the decision of the constitutional powers of Congress on the fate of the present question. He would, therefore," he said, "state his opinion that the House had a right to ask for the papers proposed to be called for, because their cooperation and sanction were necessary to carry the treaty into effect, to render it a *binding instrument*, and to make it, properly speaking, a *law of the land*; because they had a full discretion to refuse that cooperation, because they must be guided in the exercise of that discretion by the merits and expediency of the treaty itself, and therefore had a right to ask for every information which could assist them in deciding that question.

"The general power of making treaties, undefined as it is, by the clause which grants it, may either be *expressly limited* by some other positive clauses of the Constitution; or it may be checked by some powers vested in other branches of the Government, which, although not diminishing, may control the treaty-making power. That the specific legislative powers delegated to Congress were limitations of the undefined power of making treaties vested in the President and Senate; and that the general power of granting money, also vested in Congress, would at all events be used, if necessary, as a check upon, and as controlling, the exercise of the powers claimed by the President and Senate."

After stating that a treaty could not repeal a law of the United States, Mr. Gallatin asked, "to what would a contrary doctrine lead? If the power of making treaties is to reside in the President and Senate unlimitedly—in other words, if in the exercise of this power the President and Senate are to be restrained by no other branch of the Government—the President and Senate may absorb all legislative power; the Executive has nothing to do but to substitute a foreign nation for the House of Representatives, and they may legislate to any extent." Mr. Gallatin further remarked that "he should not say that the

Mr. Madison confined his remarks principally to two different constructions: one—and that supported, as he said, by the opponents of the resolution—that the treaty power was "both unlimited in its objects and completely paramount in its authority"; the other, that the congressional power was cooperative with the treaty power on the legislative subjects submitted to Congress by the Constitution.

As to the first, it is important, and appears to me to be a decisive view of the subject, that, if the treaty power alone can perform any one act for which the authority of Congress is required by the Constitution, it may perform any act for which the authority of that part of the Government is required. Congress have power to regulate trade, to declare war, to raise armies, to levy, borrow, and appropriate money, etc. If by treaty, therefore, as paramount to the legislative power, the President and Senate can regulate trade, they can also declare war, they can raise armies to carry on war, and they can procure money to support armies. I am unable to draw a line between any of the enumerated powers of Congress; and did not see but the President and Senate might, by a treaty of alliance with a nation at war, make the United States a party in that war. They might stipulate subsidies, and even borrow money to pay them: they might furnish troops to be carried to Europe, Asia, or Africa—they might even attempt to keep up a standing army in time of peace for the purpose of cooperating on given contingencies with an ally, for mutual safety, or other common objects.

The force of this reasoning is not obviated by saying that the President and Senate could only pledge the public faith, and that the agency of Congress would be necessary to carry it into operation: For, what difference does this make if the obligation imposed be, as is alleged, a Constitutional one; if Congress have no will but to obey, and if to disobey be treason and rebellion against the constituted authorities? Under a Constitutional obligation, with such sanctions to it, Congress, in case the President and Senate should enter into an alliance for war, would be nothing more than the mere heralds for proclaiming it.

He considered that construction the most consistent, most in accordance with the spirit of the Constitution, and freest from difficulties "which left with the President and Senate the power of making treaties, but required at the same time the *legislative sanction* and

coöperation in those cases where the Constitution had given express and specified powers to the legislature.

It is to be presumed that in all such cases the legislature would exercise its authority with discretion, allowing due weight to the reasons which led to the treaty. Still, however, this House, in its legislative capacity, must exercise its reason; it must deliberate; for deliberation is implied in legislation. If it *must* carry all treaties into effect it would no longer exercise a legislative power; it would be the mere instrument of the will of another department, and would have no will of its own. When the Constitution contains a specific and peremptory injunction on Congress to do a particular act, Congress must, of course, do the act, because the Constitution, which is paramount over all the departments, has expressly taken away the legislative discretion of Congress. The case is essentially different when the act of one department of government interferes with a power expressly vested in another and nowhere expressly taken away: Here the latter power must be exercised according to its nature; and if it be a legislative power it must be exercised with that deliberation and discretion which are essential to legislative power.

The general doctrine of the advocates of the resolution was that the power to make treaties was limited to *such objects* as were not comprehended and included in the specified powers given to Congress, or that a treaty embracing such objects was not valid, that is, was not the supreme law of the land unless sanctioned by the House.

The advocates of the resolution also said that this was the first time this question had come before the House for their determination, and that, whatever opinions might heretofore have been expressed by individuals or by public bodies, these could have little weight.

The Constitution having fixed no precise limits to the treaty powers, the constructive limitations contended for by the advocates of the resolution were deemed totally inadmissible by its opponents. If this extensive power was liable to abuse in the hands of the President and Senate, they remarked the same might be said of all the general powers given to Congress. In answer to the limited construction given to the words "under

enjoined upon the President as a duty to give, or which could be required of him by either House or Congress as a right; and with truth I affirm that it has been, as it will continue to be, while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States, and my sense of the obligation it imposes "to preserve, protect, and defend the Constitution," will permit.

The nature of foreign negotiations requires caution; and their success must often depend on secrecy; and, even when brought to a conclusion, a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers. The necessity of such caution and security was one cogent reason for vesting the power of making treaties with the President, with the advice and consent of the Senate; the principle on which that body was formed confining it to a small number of members.

To admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent.

It does not occur that the inspection of the papers asked for can be relative to any purpose under the cognizance of the House of Representatives except an impeachment, which the resolution has not expressed. I repeat that I have no disposition to withhold any information which the duty of my station will permit, or the public good shall require, to be disclosed; and, in fact, all the papers affecting the negotiation with Great Britain were laid before the Senate when the treaty itself was communicated for their consideration and advice.

The course which the debate has taken on the resolution of the House leads to some observations on the mode of making treaties under the Constitution of the United States. Having been a member of the general convention, and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on this subject; and, from the first establishment of the Government to this moment, my conduct has exemplified that opinion that the power of making treaties is *exclusively* vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senate present concur; and that every treaty so made and promulgated thence-

the authority of the United States," confining their operation to the constitutions and laws of the individual States it was said that they referred to treaties already made under the Confederation, as well as those to be made under the new Government. With respect to the coöperative powers of Congress or of the House in giving validity to treaties it was asked in what way this power was to be exercised? Congress could act only in their legislative capacity, and their sanction must be given by a law. This law might be passed by a bare majority of both houses, and if not approved by the President might still be re-passed by two-thirds and become a law without the assent of the President.

According to this doctrine it was also said a treaty might be sanctioned without the consent of *two-thirds* of the Senate, as a law might be passed by a bare majority of the Senate and House and be approved by the President.

WASHINGTON'S REPLY

This call for executive papers with its avowed object placed the President in a delicate situation. Satisfied after mature reflection with regard to his constitutional duty he did not hesitate as to the course to be pursued. In answer therefore on the 30th of March he sent to the House the following message, assigning his reasons for not complying with their request.

Gentlemen of the House of Representatives:

With the utmost attention I have considered your resolution of the 24th instant, requesting me to lay before your House a copy of the instructions to the minister who negotiated the treaty with the King of Great Britain, together with the correspondence and other documents relative to that treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed.

In deliberating upon this subject it was impossible to lose sight of the principle which some have avowed in its discussion, or to avoid extending my views to the consequences which must follow from the admission of that principle.

I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has

forward becomes the law of the land. It is thus that the treaty-making power has been understood by foreign nations; and in all treaties made with them *we* have declared, and *they* have believed, that when ratified by the President, with the advice and consent of the Senate, they become obligatory.

In this construction of the Constitution every House of Representatives has heretofore acquiesced; and, until the present time, not a doubt or suspicion has appeared, to my knowledge, that this construction of the Constitution was not the true one. Nay, they have more than acquiesced; for till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect.

There is, also, reason to believe that this construction agrees with the opinions entertained by the State conventions when they were deliberating on the Constitution; especially by those who objected to it, because there was not required in *commercial treaties* the consent of two-thirds of the whole number of the members of the Senate, instead of two-thirds of the Senators present; and because, in treaties respecting territorial and certain other rights and claims, the concurrence of three-fourths of the whole number of the members of both Houses respectively was not made necessary. It is a fact declared by the general convention, and universally understood, that the Constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that, under this influence, the smaller States were admitted to an equal representation in the Senate with the larger States; and that this branch of the Government was invested with great powers; for on the equal participation of these powers the sovereignty and political safety of the smaller States were deemed essentially to depend. If other proofs than these and the plain letter of the Constitution itself be necessary to ascertain the point under consideration, they may be found in the journals of the general convention, which I have deposited in the office of the Department of State.

In these journals it will appear that a proposition was made "that no treaty should be binding on the United States which was not ratified by a law," and that the proposition was explicitly rejected.

As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty, as the treaty with Great Britain exhibits in itself all the objects requiring legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the Government that the boundaries

fixed by the Constitution between the different departments should be preserved—a just regard to the Constitution and to the duty of my office under all the circumstances of this case forbids a compliance with your request.

THE HOUSE MAINTAINS ITS POSITION

The opinion of the President on this important constitutional question, however satisfactory it may now be to those who examine it without any particular bias, was by no means in accordance with that of the House. A resolution was submitted declaring the constitutional power of that body in relation to treaties, and on the 7th of April was adopted, 57 to 35, and entered on the journals. After referring to the section of the Constitution concerning treaties it declared:

That the House of Representatives do not claim any agency in making treaties; but that, when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its *execution* as to such stipulations on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the *expediency* or *inexpediency* of carrying such treaty into effect, and to determine and act thereon, as in their judgment may be most conducive to the public good.

A second resolution was added, asserting that it was not necessary to the propriety of any application from the House to the executive for information desired by them, and which might relate to any constitutional functions of the House, that the purposes for which such information might be wanted, or to which it might be applied, should be stated in the application.

The opinion expressed in this resolution relative to the power of the House regarding treaties was somewhat equivocal and seemed to be confined to the *expediency* merely of making the requisite provision for carrying them into effect whenever legislative aid was necessary for that purpose.¹

¹The question regarding the constitutional powers of Congress or of the House, in relation to treaties, came again before Congress, when the

ing about a discontinuance of the violations committed on our neutral rights, in regard to vessels and seamen, therefore," etc.

After striking out the words "highly objectionable, and may prove injurious to the United States," the preamble was negative, 50 to 49, and the resolution as reported to the House passed, 51 to 48, and bills ordered to be prepared accordingly.

AGREEMENT OF THE HOUSE TO THE TREATY

HOUSE OF REPRESENTATIVES, APRIL 15-29, 1796

Those in favor of the treaty seemed not disposed to enter into a discussion of its merits, alleging that every member had made up his mind on the subject, and that dispatch was necessary in case the treaty was carried into effect. The posts were to be delivered up on the first of June, and this required previous arrangements on the part of the American Government.

WILLIAM V. MURRAY [Md.] said "that the subject was completely understood, both by the House and country, and the time was so extremely pressing that the execution of the treaty was more valuable than any explanation which members could give. The country requires of us at this crisis acts, not speeches."

WILLIAM B. GILES [Va.], in opposition, said:

"I had hoped that a question which had already produced so much agitation would be taken up and decided upon in a manner suitable to its importance." He thought it would not be treating the public mind with a sufficient degree of respect to take a hasty vote upon the subject. He did not think that gentlemen in favor of the treaty would have wished to have got rid of it in this way. He avowed he could not discover those merits in the treaty which other gentlemen cried up; but he pledged himself that, if they would convince him the treaty was a good one, he would vote for it. He was desirous of knowing in what latent corner its good features lay, as he had not been able to find them. He thought he should be able to show features in it which were not calculated for the good, but for the mischief, of the country. He hoped, therefore, the committee would rise and suffer a proper discussion.

The President during this session had submitted to the House copies of the treaties with Spain, with the Dey and Regency of Algiers, and with the Indians north-west of the Ohio. On the 13th of April a resolution was submitted by Theodore Sedgwick [Mass.] declaring that provision ought to be made by law for carrying into effect these treaties as well as that with Great Britain.

After much altercation on the subject of thus joining all these treaties together, a division was made and the question taken on each. The resolution was amended by a majority of eighteen, so as to read "that it is *expedient* to pass the laws necessary for carrying into effect," etc.

THE HOUSE AGREES TO THE TREATY

The subject of the British treaty was taken up on the 15th of April and debated in committee of the whole until the 29th of the same month, when the question was decided in the affirmative by the casting vote of the chairman, F. A. C. Muhlenberg [Pa.], who declared he was not satisfied with the resolution as it then stood, but should vote for it that it might go to the House and be there modified so as to meet his approbation.

The next day an amendment was proposed by Henry Dearborn (Massachusetts) by way of preamble.

"Whereas, in the opinion of this House, the treaty is highly objectionable, and may prove injurious to the United States; yet considering all circumstances relating thereto, and, particularly, that the last eighteen articles are to continue in force only during the present war, and two years thereafter; and confiding, also, in the efficiency of measures which may be taken for bring-

commercial treaty or convention with Great Britain of July, 1815, was laid before that body by the President. The House at first differed with the Senate as to the form of a law for carrying into effect that part of the convention which stipulated an equality of duties in certain cases. The House at first passed a bill equalizing the duties without referring to the convention.

The Senate negatived this, and passed a declaratory bill, to which, after a conference, the House agreed 100 to 35. This bill merely "enacted and declared that so much of any act as imposes a higher duty of tonnage or of import on vessels and articles imported in vessels of the United States, contrary to the provisions of the convention, should be deemed and taken to be of no force and effect."

MR. MURRAY, in reply, "would vote for the committee to rise, as he despaired of taking a vote or hearing a word said to-day on the merits of the resolution offered. Gentlemen will, of course, come prepared, and he trusted that however terrible the treaty may have struck them in the dark, a little discussion might diminish their horrors. He could not, however, suppress his surprise that none of those, and in particular the gentleman from Virginia [Mr. Giles], who had entertained opinions so hostile to this treaty so long should be at a loss to enter on its discussion with an eagerness proportioned to their zeal and conviction of its mighty faults. But the gentleman, it seems, has left his paints and brushes at home, and cannot now attempt, though the canvas is before him, to give us those *features* of the treaty which had been so caricatured out of doors. He would agree that the committee should rise, hoping that the delay was owing to an aversion to do mischief, and relying on the effects of a night's reflection; the pillow is the friend of conscience."

With a temper and with feelings thus indicated the House entered upon the discussion of this interesting and important subject.

In this debate not only the constitutional powers of the House in relation to treaties were again discussed, but every article and every clause in the treaty examined and its merits and demerits developed. The arguments on both sides were pushed to an extreme and partook not a little of personal as well as political feelings.

The objections of those opposed to carrying the treaty into effect were generally that it wanted reciprocity—that it gave up all claim of compensation for negroes carried away contrary to the treaty of peace and for the detention of the Western posts; that it contravened the French treaty and sacrificed the interest of an ally to that of Great Britain; that it gave up in several important instances the law of nations, particularly in relation to free ships making free goods, cases of blockade, and contraband of war; that it improperly interfered with the legislative powers of Congress, especially by prohibiting the sequestration of debts, and that the commercial part gave few if any advantages to the United States.

On the other hand it was urged that the treaty had

been constitutionally made and promulgated, that a regard to public faith and the best interests of the country under all circumstances required it should be carried into effect, although not in all respects perfectly satisfactory; that it settled disputes between the two governments of a long standing, of a very interesting nature, and which it was particularly important for the United States to bring to a close; that provision also was made for a settlement of those of more recent date, not less affecting the sensibility as well as honor of the country, and in which the commercial part of the community had a deep interest; that in no case had the law of nations been given up; that the question as to provisions being contraband, although not settled, was left as before the treaty; that the conventional rights of France were saved by an express clause, and as to the sequestration of private debts it was said this was contrary to every principle of morality and good faith, and ought never to take place; that the commercial part would probably be mutually beneficial was a matter of experiment, and was to continue only two years after the close of the war in Europe. That in fine on the part of the United States the only choice left was treaty or war.

No question in Congress had ever elicited more talents or created greater solicitude than this. The loss of national character from a breach of plighted faith was strongly urged by those who believed the House bound to carry the treaty into effect. Should the treaty be rejected, war, it was also said, could not be avoided consistently with the character and honor of the American nation. The Western posts would be retained, the Indians again placed under the control of the British, millions unjustly taken from the merchants would be lost, and perhaps as many millions more added by future spoliations; redress for past, and security against future, injuries must, it was said, be obtained either by *treaty* or by *war*. It was impossible that the American people could sit down quietly without an effort to right themselves.

On these topics all the talents and all the eloquence of the advocates of the treaty were exerted and dis-

removed by the treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered at that day as a happy escape from the calamity?

The great interest and general desire of our people were to enjoy the advantage of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots or referred to a new negotiation after the end of the European war. This was gaining everything, because it confirmed our neutrality, by which our citizens are gaining everything. This alone would justify the engagements of the Government. For when the fiery vapors of the war lowered in the skirts of our horizon all our wishes were concentrated in this one, that we might escape the desolation of this storm. This treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded at the same time the sure prognostic of fair weather. If we reject it the vivid colors will grow pale, it will be a baleful meteor, portending tempest and war.

The speech of Mr. Ames, though delivered at nearly the close of this debate, was listened to by the House and by a crowded audience with a most silent and untired attention. Its eloquence was admired by all, though its effects were dreaded by some.

In deference to this dread, the question was postponed until the following day.

The delay occasioned by these debates had been favorable to the treaty. It gave time for reflection among those opposed, and also afforded an opportunity for an expression of their sentiments by others who had hitherto been silent, willing to leave the decision with the constituted authorities. Alexander Hamilton, Rufus King, and John Jay wrote a series of letters, thirty-five in number, signed "Camillus," in defence of the treaty, which operated powerfully to influence the public mind in its favor. Madison was eager to enter into the lists against these letters, of which it was clearly evident that Hamilton was, if not the sole author, at least the dominating spirit. Jefferson, however, dissuaded him from the attempt, saying that any reply to the defence of the treaty by the Federalist "colossus" would in the end redound to the acceptance of his arguments. The great

played. Mr. Ames in particular exceeded all his previous forensic efforts. From the peroration which dealt with the horrors of Indian warfare which might be expected if the treaty were rejected, his address received the name of the "Tomahawk Speech."

RAINBOW OF PEACE OR METEOR OF WAR?

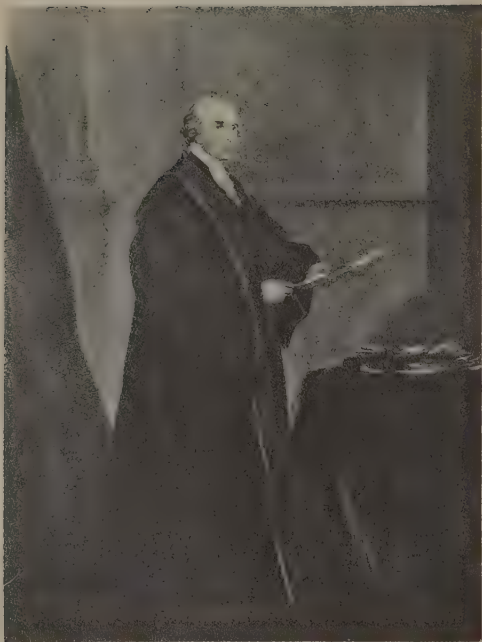
SPEECH OF FISHER AMES, M. C., ON RATIFICATION OR REJECTION OF JAY'S TREATY

By rejecting the posts we light the savage fires, we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make, to the wretches that will be roasted at the stake, to our country, and, I do not deem it too serious to say, to conscience and to God. We are answerable, and if duty be anything more than a word of imposture, if conscience be not a bugbear, we are preparing to make ourselves as wretched as our country. There is no mistake in this case, there can be none. Experience has already been the prophet of events, and the cries of our future victims have already reached us. The voice of humanity issues from the shade of their wilderness. It exclaims that while one hand is held up to reject the treaty the other grasps a tomahawk. It summons our imagination to the scenes that will open. It is no great effort of the imagination to conceive that events so near are already begun. I fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the western wind—already they mingle with every echo from the mountains.

After adverting to other probable and almost certain consequences of a rejection of the treaty—dissensions between the different branches of the Government—war abroad and anarchy at home—the orator reverses the picture:

Let me cheer the mind, weary, no doubt, and ready to despond, on this prospect, by presenting another which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which many will say produced, and, all will confess, have preserved it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 were

mass of the people began seriously to reflect on the consequences of the treaty's rejection, nor could they be induced to believe that the President, who had once saved his country from the tyranny of Great Britain, had now sacrificed its best interests to the same power. During the discussion therefore numerous petitions were presented to the House from different parts of the Union, praying that the treaty might be carried into effect. This changed the votes if not the opinions of some of the members, and when the question was finally put it was decided in favor of the treaty. This action probably saved the United States from being involved in the war which then and so long afterwards desolated Europe.



John Jay

CHAPTER III

THE BREACH WITH FRANCE

France's Displeasure over Jay's Treaty—French Directory Orders Minister Charles Cotesworth Pinckney to Leave the Country—Washington's Farewell Address: "No Entangling Foreign Alliances"—President John Adams Proposes Arming of Merchant Vessels—Richard Sprigg, Jr. [Md.] Introduces Peace Resolutions in the House—Debate: in Favor, Abraham Baldwin [Ga.], William B. Giles [Ga.], John Nicholas [Va.], Albert Gallatin [Pa.], Edward Livingston [N. Y.]; Opposed, Samuel Sitgreaves [Pa.], Harrison Gray Otis [Mass.], Jonathan Dayton [N. J.], Robert G. Harper [S. C.], John Rutledge, Jr. [S. C.], Samuel Sewall [Mass.], Samuel W. Dana [Ct.], Nathaniel Smith [Ct.], John Williams [N. Y.], Thomas Pinckney [S. C.], John Allen [Ct.], James A. Bayard, Sr. [Del.]—Another Embassy Is Sent to France—A Treaty Is Signed and Ratified.

IN February, 1796, the French Minister of Foreign Affairs informed the American minister to that country, James Monroe, that the Directory considered the alliance between France and the United States at an end from the moment that the treaty with Great Britain was ratified, and intimated that a special envoy would be sent to announce this to the American Government. On the 2nd of July the Directory issued their celebrated decree, that "all neutral or allied powers shall, without delay, be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches, or capture, in the same manner as they shall suffer the English to treat them."

Secret orders to capture American vessels had probably been sent to the West Indies previous to this, as in June preceding a valuable ship called the Mount Vernon was captured off the capes of Delaware by a privateer from St. Domingo, commissioned by the French Republic.

The nations in Europe under the influence of France were required about the same time to pursue a similar conduct toward the Americans.

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GREAT AMERICAN DEBATES

France and Spain, on the 19th of August, 1796, concluded a treaty of alliance, *offensive and defensive*. This treaty contained a mutual guaranty of all the states, territories, islands, and places which they respectively possessed, or should possess. France at this time was also contemplating obtaining from Spain Louisiana and the Floridas.

Washington was dissatisfied with the conduct of the American minister in France, particularly in delaying to present to the French Government an explanation of the Administration's views in concluding a treaty with Great Britain. So he recalled Monroe, and appointed Charles Cotesworth Pinckney of South Carolina to succeed him. But when Mr. Pinckney's credentials were laid before the Directory he was informed through Mr. Monroe that the French Government would "no longer recognize a minister plenipotentiary from the United States until after a reparation of the grievances demanded of the American Government, and which the French Republic has a right to expect." Mr. Pinckney was permitted to reside at Paris until about the first of February, 1797, when the Directory gave him written orders to quit the territories of the Republic.

In September, 1796, President Washington, in declining another election, had for the last time addressed his fellow citizens on subjects which he deemed highly important and intimately connected with their future political welfare.¹

"NO ENTANGLING FOREIGN ALLIANCES"

WASHINGTON'S FAREWELL ADDRESS

The unity of government which constitutes you one people is also now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence, the support of your tranquil-

¹ James Madison stated that President Washington, four years before this, had submitted to him certain sentiments which he wished Madison to incorporate in a "farewell address," Washington at that time contemplating refusal to serve a second term as President. Accordingly Madison surmised that the President had called some one to render him a similar service in 1796—and opined that this was Alexander Hamilton, Secretary of the Treasury.

THE BREACH WITH FRANCE

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ity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity, watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens, by birth or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference you have the same religion, manners, habits, and political principles. You have, in a common cause, fought and triumphed together; the independence and liberty you possess are the work of joint councils and joint efforts, of common dangers, sufferings, and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds, in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The South, in the same intercourse, benefiting by the agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish

and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in like intercourse with the West, already finds, and in the progressive improvement of interior communications, by land and water, will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort, and, what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure, by which the West can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find, in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries, not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endeavor to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation, in such a case, were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. 'Tis well worth a fair and full experiment.

liberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction, to give it an artificial and extraordinary force, to put in the place of the delegated will of the nation the will of a party, often a small, but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitions, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterward the very engines which have lifted them to unjust dominion.

Toward the preservation of your Government and the permanency of your present happy state, it is requisite, not only that you speedily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretexts. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country; that facility in changes, upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion. And remember, especially, that for the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprises of faction; to confine each member of society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geo-

With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who, in any quarter, may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs, as a matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—Northern and Southern, Atlantic and Western—whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection.

To the efficacy and permanency of your Union a government for the whole is indispensable. No alliances, however strict, between the parts, can be an adequate substitute; they must inevitably experience the infractions and interruptions which alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a Constitution of government better calculated than your former for an intimate union, and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter the constitutions of government. But the Constitution, which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish a government presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular de-

graphical discrimination. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes, in all governments, more or less stifled, controlled, or repressed. But in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissensions, which, in different ages and countries, has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads, at length, to a more formal and permanent despotism. The disorders and miseries, which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind (which, nevertheless, ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself, through the channels of party passion. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties, in free countries, are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and, in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose. And, there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched,

it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

It is important, likewise, that the habits of thinking, in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominate in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositaries, and constituting each the guardian of the public weal against invasion by the other, has been evinced by experiments ancient and modern: some of them in our country, and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be, in any particular, wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the destinies of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connection with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles.

It is substantially true that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with

more or less force to every species of free government. Who, that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion it is essential that public opinion should be enlightened.

As a very important source of strength and security cherish public credit. One method of preserving it is to use it as sparingly as possible; avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should coöperate. To facilitate to them the performance of their duty it is essential that you should practically bear in mind that toward the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always the choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

Observe good faith and justice toward all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that, in the course of time and things, the fruits of such a plan would richly repay any temporary advantages that might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular na-

tions, and passionate attachments for others, should be excluded; and that in place of them just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur.

Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times it makes the animosity of the nation subservient to projects of hostility instigated by pride, ambition, and other sinister and pernicious motives. The peace often, and sometimes, perhaps, the liberty, of nations has been the victim.

So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation facilitating the illusion of an imaginary common interest in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions; by unnecessarily parting with what ought to have been retained; and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity; gilding, with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence, in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions; to practice the arts of seduction; to mislead public opinion; to influence or awe the public councils! Such an attachment of a small or weak nation

toward a great and powerful one dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be constantly awake; since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation, and excessive dislike of another, cause those whom they actuate to see danger only on one side; and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote, relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships and enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own, to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?

'Tis our true policy to steer clear of permanent alliances with

any portion of the foreign world; so far, I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But, in my opinion, it is unnecessary, and would be unwise, to extend them.

Taking care always to keep ourselves, by suitable establishments, in a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying, by gentle means, the streams of commerce, but forcing nothing; establishing, with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be, from time to time, abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay, with a portion of its independence, for whatever it may accept under that character; that, by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion, which experience must cure, which a just pride ought to discard.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity toward other nations.

The inducements of interest for observing that conduct will best be referred to your own reflection and experience. With me a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

expedient to resort to war against the French Republic, that the arming of merchant vessels should be restricted, and that adequate measures of defence should be adopted."

The resolutions accomplished their object by clearly dividing the House into supporters and opponents of the conduct and policy of the President. In the long and animated debate upon them they were gradually lost sight of, a more specific issue arising in the proposition to ask the President for all the papers dealing with the French relations. This proposition was carried.

The chief supporters of the Administration were Samuel Sitgreaves [Pa.], Harrison Gray Otis [Mass.], Jonathan Dayton [N. J.], Robert G. Harper [S. C.], John Rutledge, Jr. [S. C.], Samuel Sewall [Mass.], Samuel W. Dana [Ct.], Nathaniel Smith [Ct.], John Williams [N. Y.], Thomas Pinckney [S. C.], John Allen [Ct.], and James A. Bayard, Sr. [Del.].

The chief opponents of the Administration were Abraham Baldwin [Ga.], William B. Giles [Va.], John Nicholas [Va.], Albert Gallatin [Pa.], and Edward Livingston [N. Y.].

ON THE PEACE RESOLUTIONS

HOUSE OF REPRESENTATIVES, MARCH 27-APRIL 2, 1798

MR. SITGREAVES was opposed to the resolutions of Mr. Sprigg. He said:

It is contrary to the usual and ordinary course of legislative proceeding to pass mere negative resolutions. The power of declaring war being vested in the Congress, so long as the Congress shall forbear to declare war it is a sufficient expression of their sentiment that such a declaration would be inexpedient: it is the only proper expression of such a sentiment; and it can be no more right to resolve that we will not resort to war, than it would be to pass an act to declare it would be inexpedient to make a law for the regulation of bankruptcy or any other municipal concern.

MR. BALDWIN did not believe it was intended that this House should merely be the instrument to give the sound of war; the subject seemed to be placed wholly in the hands of the legisla-

President John Adams in his inaugural address spoke only in general terms of the strained relations with France, expressing the hope that friendship might continue between the two nations. He called, however, a special session of Congress in which he delivered an address bearing fully and plainly upon the situation. As a measure of national protection, he proposed a naval establishment and asked Congress to pass such regulations as would "enable our seafaring citizens to defend themselves against violations of the law of nations," and also advised that the regular artillery and cavalry be increased and arrangements be made for forming a provisional army, and that the militia laws be revised for greater effectiveness.

The reply of the Senate heartily endorsed the President's policy. The answer of the House was in similar vein, although the opposition (Republicans) had proposed a number of amendments to the draft of the appointed committee which would cause the reply to endorse the proposals of the new administration without approving the acts of the old, and which, by going as far as possible in excusing her acts, would prevent it from irritating France.

In furtherance of a promise to Congress to reopen negotiations with France, President Adams appointed Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry envoys extraordinary to that country.

On March 19, 1798, the President informed Congress that the envoys to France had been unable to secure terms "compatible with the safety, the honor, or the essential interests of the nation," and he recommended that preparations for war be made. He also announced that he intended no longer to restrain merchant vessels from arming themselves.

This was the first time that Congress under the Constitution had been called upon to prepare for war, and a number of interesting constitutional arguments were brought forward in the discussion which ensued. The main debate was upon resolutions introduced on March 27, for the purpose of clarifying the situation, by Richard Sprigg, Jr., of Maryland. These were that it was "not

ture. This was the understanding of the country when there was no government in existence, and he believed this was the meaning of the Constitution. The country is now everywhere agitating this question of peace or war, and he trusted they would not be left to grope their way in the dark on this important question. The President had informed the House that all hopes of a negotiation were at an end. He was willing to take the information as it was given, without going into the cabinet of the executive, and to take measures accordingly. But, when some persons declare that the present state of things is already a state of war; that the country is going on in it; that the die is cast; and that we have nothing to do but to go on with it as well as we can, if the House does not believe this to be a true position, this resolution ought to be agreed to, which went to say that the House does not consider the present a state of war, but a state of peace.

MR. OTIS proposed to strike out the words "resort to" and insert "declare" as he was of opinion with the gentleman from Pennsylvania (Mr. Sitgreaves) that the only subjects fit for discussion were active measures, and that it was not regular to declare when they would not do a thing.

MR. DAYTON (the Speaker) moved to strike out the words "against the French republic" and declared that, although he deemed the whole resolution unnecessary, and considered it as not naturally growing out of the President's message, which did not call upon us to declare or make war, yet, as it must be the intention of the mover, or of some other member, to follow it up with like declarations in relation to all other nations with whom the United States had any intercourse, provided they acted consistently, he thought it better to make the resolution a general one, even if it should be afterward negated.

MR. HARPER seconded the motion of the gentleman from New Jersey. He was not himself disposed for war, but for peace, while peace could be preserved. But he never said, and would not say, that war was the worst thing which could happen to this country; he thought submission to the aggressions of a foreign power infinitely worse. If gentlemen meant, by agreeing to this resolution, to prevent the country from being put into a state of defence; if they meant by it to effect an entering wedge to submission, he trusted they would find themselves mistaken; for, though he believed the true interest of the country lay in peace, yet he was not disposed to recede from any measures which he thought proper through fear of war.

MR. GILES believed this the proper time to declare whether

the country should remain in peace or go to war. He thought the resolution proper as it stood, because founded on the message of the President, in which the French republic only is named. There was a part of that message, he said, which, in his opinion, amounted to a declaration of war. The President tells the House "that the situation of things is materially changed since he issued his order to prevent the arming of merchant vessels." As far as he understood the situation of the United States at that time, it was a state of neutrality. If that state is changed, and the present is not a state of neutrality, he wished to know what is. He knew only of two states: a state of neutrality and a state of war; he knew of no mongrel state between them. Therefore, if the President of the United States could declare war, we are now in war. Believing, however, that Congress had alone the power to declare war, he thought it time to declare what the state of the nation is. He did not know whether the object might not be answered by the resolution being general, as he was and always had been (notwithstanding insinuations to the contrary) against war with any nation upon the earth. He looked upon war as the greatest calamity which could befall any nation; and, whatever may be the phantoms raised in perspective of national honor and glory in such a state, they will, in the end, all prove fallacious. He believed no nation ought to go to war except when attacked; and this kind of war he should be as ready to meet as any one. He believed we were in a state which required the utmost vigor; but he thought every measure should be avoided which might involve the country in war. For, if we were to go to war with the French at present, he knew not what ever could take place which could produce peace; it must be a war of extermination.

MR. NICHOLAS considered this amendment as defeating the resolution. Was there nothing, he asked, which called for a declaration of the kind proposed? Was it not clear to every one that the country was going fast into a state of war, and was it not to be expected? Ought not the legislature, then (who alone have the power of declaring war), to determine the state of the country, and say whether they mean to go immediately to war or not? He thought the necessity of the resolution was sufficiently evident, by the motion which had been made to change the words from "resort to war," to declare war; in the one case the mischief was met, while the other meant nothing. And, if gentlemen were ready to say we were not prepared to declare war, and, at the same time, were not ready to say it is not expedient to resort to war, it proved that they thought war might

be made without being declared. He asked whether gentlemen did not believe the executive had taken measures which would lead to war? And that, if he were at liberty to act upon a change of circumstances between this country and others, Congress were not brought into a situation in which they had no choice? Many discussions had heretofore taken place on the Constitution, but he had never heard it doubted that Congress had the power over the progress of what led to war, as well as the power of declaring war; but, if the President could take the measures which he had taken with respect to arming merchant vessels, he, and not Congress, had the power of making war. He was of opinion that the step taken by the President with respect to merchant vessels went to declare that we rested our cause on arms, which was not calculated to produce any good effect in our favor.

MR. RUTLEDGE said: Gentlemen asked whether war is not approaching? And whether the Executive is not hastening it? To the first question he could not answer, as it depended on France, and so versatile and uncertain is everything in that country that no dependence can be had upon it. The second question he answered in the negative. War would be a loss to this country; and to no individual more than the Executive, who is no warrior—consequently war has no laurels in store for him.

Referring to the inaction of Congress at the previous session, he thought our frigates ought not to have remained at the wharves; that our extensive seacoast, on which is much wealth, should not be unprotected: he thought our seaports, the principal depots of our revenue, ought to have been fortified. He had joined his friends in their attempts to have carried these measures, and, when they failed, he could not help thinking his country was in a degraded state and that she had lost the spirit which animated her in the year 1775. He hoped, however, that now, when France had gone to the lengths which she has gone to, there would be only one sentiment as to the propriety of the measures formerly proposed.

MR. SEWALL quoted a part of the President's message as to the decree which was proposed respecting the taking of English goods on board of neutral vessels and the carrying of which was declared to make neutral vessels good prizes. This last regulation, Mr. S. said, was a direct violation of the law of nations, and amounted to a declaration of war on the part of France against this country. But, instead of making any defence, gentlemen call upon the committee to declare we are not disposed to resort to war against the French republic; so that,

after we have been injured and abused, and the common rights of humanity have been denied us, we are not to complain, but make a declaration that we will not go to war. Was, then, he asked, a question of war a card of politeness? Did a nation ever make a declaration that it was not at war? It could not say so, except it were in so degraded a state that it had no rights capable of injury. To say we are not at war to say no more than it is light when the sun shines; but to call upon the committee to say so at this time was to degrade the nation from its independence and below its character. The present state of things, Mr. S. said, ought to be considered as a state of war, not declared by us, but against us, by the French republic; and if we want spirit to defend ourselves let us not say so. We may refrain from acting, but let us not say we receive injuries with thankfulness. But this proposition goes still further. In a moment of public danger it goes to divide and separate this House from the President of the United States. The gentleman from Virginia [Mr. Giles] had well explained this resolution when he said it was intended to interrupt the views of the President of the United States. That gentleman considered the message of the President as a declaration of war, and this resolution was to be in contradiction to it. If this was the sense in which it was to be understood, it was false in point of fact; for the President had neither declared war nor called upon Congress to declare war; no such sentiment could be found in the message. To agree to the proposition as it stands would be to give countenance to the assertion of the French Government that we are a people divided from our Government; but, taking it with the amendment, he looked upon it as a harmless thing. Mr. S. concluded by saying that he considered the conduct of France in the light of war. How far we would resent it was the question; whether offensively or defensively. He was in favor of defensive measures, as we are not equal to offensive measures (he wished to God we were). It was our weakness and the division which had appeared in our councils that had invited these attacks. He trusted they should now unite and repel them.

MR. GALLATIN said the intention of the amendment was evidently to render the resolution as unmeaning as possible.

Every gentleman who had spoken on this subject had agreed that war is not a desirable object for the United States. He gave them credit for the assertion. But this was not the question; but whether we are prepared to resort to war under existing circumstances. It is a question of fact.

The people of the United States are informed by France that

negotiations are at an end, and that we cannot obtain redress for wrongs, but may expect a continuation of captures in consequence of the decree, which it was supposed was passed, for seizing all neutral vessels with British property, manufactures, or produce on board. Mr. G. said he differed in opinion from the gentleman last up that this was a declaration of war. He allowed it would be justifiable ground of war for this country and that, on this account, it was necessary to agree to, or reject, the present proposition in order to determine the ground intended to be taken. For, though there may be justifiable cause for war, if it is not our interest to go to war the resolution will be agreed to.

There was another reason why this resolution ought to be now decided which arose from the conduct of our executive. He has declared that a change of circumstances has taken place which has occasioned him to withdraw his order forbidding merchant vessels to arm; which amounts to this: that he now permits vessels of the United States to use means of defence against any attack which may be made upon them. Mr. G. thought it necessary, therefore, to declare whether we were to pursue measures of war or peace.

MR. DANA said the gentleman from Pennsylvania, and two gentlemen from Virginia, had said that the message of the President amounted to a declaration that we were now in war. This idea he thought was stated very incorrectly. They did not seem to have understood the meaning of the language of the President. The state of things which existed at the time orders were issued to prevent the arming of merchant vessels was essentially different from the present; then there was an evident disposition in the owners of vessels to cruise against a foreign belligerent nation and the order was issued to prevent attack and plunder; but the desire to arm at present is for the purpose of defence merely, and not to cruise or plunder. There is a law forbidding vessels to arm for the purpose of cruising; but none forbidding merchants to arm in their own defence. This was the fair construction, he believed, of the meaning of the President.

MR. OTIS considered the message in a different view from many gentlemen. But admitting, for the sake of argument, that the President had declared an opinion upon the facts stated by him, that war was inevitable; gentlemen must consider the fact to be true; if they doubted it, they ought to demand information.

MR. SMITH looked upon the present resolution as very un-

important. It simply afforded a text from which it was intended to alarm the people with respect to war, and he wished not to indulge gentlemen in their design. He wished the question to be taken for another reason. It was suggested by the gentleman from Virginia that the message of the President was considered by the people as a declaration of war, and that reports were in circulation that a treaty, offensive and defensive, was concluded with Great Britain. After this he would call the attention of the committee to the resolution, which was, in effect, to say, we must interfere or war will be brought upon the country. Did not this go to sanction a report which was as false and malignant as even Jacobinism could invent? It did; and he hoped they would not so far sanction the report as to let the motion lie before them undecided.

MR. GILES said the question was a question of peace or war, and yet gentlemen call it trifling. He did not mean to alarm the people of the United States, but he wished them to understand their situation. He acknowledged he was himself much alarmed. Gentlemen were willing to engage in defensive, but not in offensive, war; but, when war was once begun, it would not be in the power of the United States to keep it within the character of defensive war. Indeed, the gentleman from Massachusetts [Mr. Sewall], when he spoke of defensive war, confessed our inability for offensive war, and uttered a prayer to the Supreme Being that we were able to engage offensively; and where, he asked, with such sentiments, is the difference between offensive and defensive war? He could see none; he deprecated war of every kind.

MR. WILLIAMS was persuaded that this negative mode of proceeding was calculated to draw on a debate to set the people against the executive. He had himself seen gentlemen write upon the late message of the President for the purpose of sending to their constituents: "*A war message against France.*"

MR. PINCKNEY said from the first period of a misunderstanding with France declarations have been made deprecating war in general terms, but particularly with that nation. A minister plenipotentiary had been sent to explain the views of this Government, and to remove any jealousies which might exist, and to make such specific propositions as were thought necessary; but our minister was rejected without a hearing. The next measure was to send special commissioners in order to settle our differences and avert the calamity of war. We have, therefore, made sufficient declarations of our pacific intentions. Indeed, he thought too much had been rested on these declarations, as nothing

had been done for our defence. When we looked at our seaports and saw their defenceless condition he thought it evident sufficient attention had not been paid to them, knowing that war might at least be a possible event.

He should not have been surprised if some one, fired with the injuries we have received, had brought forward a proposition for war. But instead of this, smarting as we are under injuries, our commerce bleeding at every pore, and our country deeply humiliated, we are called upon to say: You have done everything to injure, insult, and degrade us but we have deserved it; we will do nothing to oppose you. Though God and nature have given us power we will not go to war with you, neither on the present occasion nor on any other, whatever injury you may commit upon us.

MR. GILES said that we ought not to resort to war beyond the limits of the United States. Within our own limits we are capable of making something like exertion, and there, he believed, exertions might be made to advantage. Indeed, one of the propositions which is connected with the present goes to this purpose, and therefore with what propriety could the gentleman say he, and those who were of his opinion, were not for preparing for defence till the enemy is at the door? Nor could he see anything like humiliation in this. Nay, he was convinced if we carried our preparations for defence beyond our own limits, instead of gaining glory or honor, we shall meet with nothing but disgrace, as we are not prepared to make a defence at sea. Indeed, the moment we get beyond our jurisdictional line, defence will become offence, because there will be no evidence by which it can be ascertained by whom the attack commenced. It would, therefore, be unwise to permit ourselves to be placed in this situation.

At present, said Mr. G., there is a pretty general opinion in the country (and he thought there was much ground for the opinion) that there is a disposition in a part of this House, and in part of the Government, for war; and he thought it was proper to come to a declaration upon the subject. This would not only have a good effect upon our own citizens, but it would convince European powers that, though we were preparing for defence, we were not preparing for war.

MR. HARPER said gentlemen preached about peace. They cry, "peace! peace!" as if we, holding the scale of the world, had the power to preserve it. Do not gentlemen know that peace or war is not in our power? They do know it, and that all in our power is to resist, or submit. Was not the clamor which was

heard about peace in so many words saying: you must submit, not only to what injuries you have received, but to what you may hereafter receive? If peace was all that gentlemen wanted they would take the resolution in general terms, as proposed to be amended; but their opposing it shows that they have no objection to hostility, if it be not against those whom they dread. And this was the spirit of peace which they wished to preserve—a spirit which he deemed vile submission—a spirit which was afraid to complain and which met every new insult without murmur.

The committee were now told it would be time enough to prepare for war when an invasion of our country was attempted. And why were they told this? Because such an event is not likely to take place. Gentlemen know that all the hostility which France wished to commit against this country may be done by destroying our commerce.

MR. H. said he would bring his proofs to show that those gentlemen who are now so loud in their calls for peace were heretofore the supporters of a war system. For this purpose he adduced Mr. Monroe's view of the conduct of the Executive of the United States, which, he said, was a publication which had met with the most unbounded and enthusiastic applauses from all the party; and he read from it an extract of a letter from Mr. Monroe to our Secretary of State dated Paris, September 10, 1796, in which he states it to be his opinion "that if a suitable attempt be made to engage the aid of the French Government in support of our claims upon England it may be accomplished; and that to secure success it will be necessary to take the posts and invade Canada."

Yet these are the gentlemen who now are willing to say to France: "We will not fight you; we give you license to do us all the injury you please. You may fit out half a dozen frigates which will be able to block up our ports; and we give you this notice that you may effect your purpose with little expense and not prepare a large fleet for the purpose."

MR. GILES said the gentleman from South Carolina [Mr. Harper] had said "that it had been the object of himself and his associates, but particularly of himself, since the year 1794 to go to war with Great Britain, if possible, and to enter into a treaty of alliance, offensive and defensive, with France."

From the year 1794 to the present period he had uniformly declared it to be his opinion "that war is justifiable only in case of self-defence."

Though he thought France had just ground of complaint

against this country, he did not mean to justify her conduct toward us. He thought she ought to have received our ministers; and, if they had not agreed, to have taken such measures as they thought proper. But this is supposing our ministers clothed with sufficient powers; if they were not there would be some ground of justification for their conduct. The President of the United States is in the possession of information which would satisfy the Congress and the people in this respect, but he has thought proper to withhold it, and therefore he alone is responsible. The President informed the House that he had received certain papers and says: "I have considered these papers; I have deliberated upon them; I have not sent them to you but require you to act upon them; I call upon you to take energetic measures and request you will provide sufficient revenue." The House has been thus obliged to take up the subject in the dark. Is this, said he, a desirable state for the legislature to be placed in? Is it not rather a degraded state? He thought when party rage shall subside this conduct would be deemed extraordinary. In these circumstances, said he, are the people of the United States to be led on from step to step until they are irrevocably involved in war? And are the people to be told that this is a trifling question?

MR. HARPER replied to Mr. Giles's assertion that he (Mr. G.) never proposed war against Great Britain. He knew it. The gentleman always spoke of peace, but pursued measures which led to war. He did not speak of war when he recommended sequestrations, confiscations, etc., because he loved peace. He did not talk of war; but, while he and his friends opposed measures of defence, they were in favor of every measure which led to war. While they were irritating a nation to war they opposed the building of frigates. He thought it seemed as if gentlemen believed it would be well to get to war and then rely upon their favorite nation for support.

MR. GILES renewed the assertion that he and his friends always had been willing to put the nation in a state of defence. As to the frigates, he gloried in his vote against them; but with respect to the use of them the gentleman was mistaken. They were intended to be sent against the Algerines only.

MR. ALLEN said it had been observed, and not in the most candid and proper manner, that the papers received from our commissioners ought to have been laid before the House, and the President had been charged with withholding them.

Though he was himself satisfied with the information he had at present, he believed there were many gentlemen in the

House who wished for more, because there is a paper printed in this city which is continually insinuating that there is something in these dispatches which, if they were made known, would show that the conduct of the Executive has been improper. He therefore proposed the following resolution:

"Resolved, That the President of the United States be requested to communicate to this House the dispatches from the envoys extraordinary of the United States to the French republic, mentioned in his message of the 19th instant, or such parts thereof as considerations of public safety and interest in his opinion may permit."

MR. GILES said that no part of the correspondence ought to be kept from Congress. He was not himself satisfied as to the sincerity of the proceedings of the Executive of the United States toward France; he wished, therefore, not only to have the correspondence of our Ministers, but the instructions which were given to them.

MR. LIVINGSTON moved to amend the resolution by striking out all the words after the 19th instant, and insert after the words "this House" "the instructions to and."

The latter part of the resolution proposed to transfer a right to the President which it ought itself to exercise, as to judging of what it was proper to publish in consideration of the public safety and interest. If this power was given to the President he might withhold such parts of the papers as might prevent a correct judgment being formed upon them. He was not himself disposed to cede to the President the right which he was sent there to exercise for his constituents, of judging of so important a question as a question of peace or war. He could not basely surrender this right. If the papers were called for at all he hoped the whole would be called for, in order that the House might form that sound and temperate judgment for which the present crisis so loudly calls and for which the people of the United States so anxiously look. Indeed, to pass the resolution unamended would, in his opinion, be a shameful dereliction of their rights.

MR. BAYARD thought the propriety of this call upon the President was extremely doubtful and, as it regarded the instructions given to our ministers, wholly improper. With respect to the communication of the dispatches, it was wholly a matter of executive discretion to judge whether it would be proper to communicate them or not. He was one of those who had so much confidence in the Executive as to trust to his candor, understanding, and integrity to determine upon the propriety of what

he should send to, or withhold from, this House. At a time when it is not known that our negotiation with France is closed it would be extremely imprudent to have the instructions of our ministers laid before this House, as what was sent here, notwithstanding any vote of secrecy, would not long be kept secret. It would soon be in Europe and might do us essential injury by disclosing our ultimatum to France and by showing it also to the world. It was in vain, Mr. B. said, to suppose that one hundred men could keep a secret for any length of time, however important it might be. To elucidate that assertion he referred to the divulging the secret of the British treaty by a Senator.

But the gentleman from Virginia [Mr. Giles] has no confidence in the Government of this country with respect to its negotiation with France and, in order to try the sincerity of the Executive, he wishes for the papers. Does the gentleman by this mean to give the lie to the Executive? Because in his message he has told the House that he has given power to our ministers to settle our disputes with the French republic, and to "make all reasonable concessions." What more does the gentleman wish? Does he wish unreasonable concessions to be made? Surely he does not. Did anything appear in the conduct of the French Directory to show that our Ministers were not possessed of ample powers? No; the Directory never knew anything about their powers, at least so far as any official communications had been received on the subject. There could not, therefore, be any ground upon which the gentleman could rest his suspicions. He hoped, therefore, the amendment would be negatived.

Mr. Livingston's amendment was adopted. Mr. Allen's resolution was then adopted as amended by a vote of 65 to 27.

The President replied to the request of Congress by sending it every scrap of the communication he had received from the envoys in Paris. Whether he and his supporters in the House had planned the entire affair for the discomfiture of the opposition, or it had risen naturally out of the suspicions of the Republicans, its success was complete and even overwhelming. There was nothing at all revealed which excused France for her action. Indeed, the President's former communication had been singularly reserved in its statement of the ill treatment to which the American envoys had been

subjected. Congress now learned that they had been kept six months without official recognition, during which they had been approached unofficially by three agents of Talleyrand, the French Minister of Foreign Affairs, with the suggestion that bribes to the governments of France and Holland, under the guise of "loans," might gain their object. The agents made their proposals under the signatures of X, Y, and Z, and from this the whole affair became popularly known as the "X Y Z Mission."

The envoys spurned the suggestion of the agents, saying "we will not give you a sixpence"—a reply which was later developed by the American people, proud of their envoys' action, into the swelling epigram: "Millions for defence, but not one cent for tribute."

Finding the envoys inflexible, on April 3, 1798, Talleyrand ordered Pinckney and Marshall to quit the country, but expressed a desire that Gerry, who he thought, as a Republican would be more amenable to his plans, would remain. This desire was expressed so strongly and significantly that Gerry, fearing to precipitate war by not acceding to it, stayed on until August, when he received imperative instructions from the American Government to return home.

On Gerry's assigning his reasons for leaving, Talleyrand brazenly denied, with great show of indignation, all knowledge of the X Y Z proposals. Yet he could not deny that he himself had resorted to the old policy of the French Government in American affairs of appealing to the American people over the heads of their Government. In this appeal he greatly deceived himself. The whole country flamed with warlike defiance. Mass meetings were held everywhere and addresses in support of the President were adopted; volunteers offered themselves for war, and subscriptions of money and war vessels were made. The revolutionary badge of the time, the black cockade, became a popular adornment of hats, and patriotic songs, such as "Hail Columbia" and "Adams and Liberty" were written and sung.

The Republicans, on whom Talleyrand had leaned for support, were especially eager to avow their patriot-

ism. The French, said Jefferson, "had so far mistaken the party as to suppose their first passion to be attachment to France and hatred of the Federal party, and not love of their country."

Nevertheless the Republicans were put on the defensive and became greatly unpopular. In the House of Representatives, in which they had been of equal strength with the Federalists, all the doubtful members and many of the former adherents of the party joined



"THE CONTRAST"

From Lossing's "Field Book of the War of 1812"

with the forces of the administration and ratified the bills of the Federalist Senate for increasing the army and navy, purchasing foundries, etc. On April 30 the navy, which had heretofore been a part of the war department, was placed in a new department under Secretary Benjamin Stoddert. War vessels were authorized to capture armed French vessels committing depredations on American commerce; merchant vessels were armed to prevent capture, and privateers were commissioned. A direct tax was imposed, and loans upon the credit ordered, as well as a general loan of \$5,000,000. On June 13 commercial intercourse with France was suspended, and on July 9 all treaties with that country were declared no longer binding, as having been broken by France.

The only one of the measures to which the Republicans offered determined opposition was that of the increase of the army by provisional troops. It was claimed that these were needed because of a threatened

invasion of the Southern States from the West Indies by a soldier of fortune, Victor Hugues, leading a force of negroes with the avowed intention of rousing a slave insurrection. Since the provisional troops would be officered by appointees of the Federalist administration, the Republicans declared that advantage was being taken of the "war scare" to provide salaries for Federalist politicians, and that the army might be used in party warfare, although they had the good sense not to make these charges in the course of the debate in Congress, very properly confining their objections to questions of constitutionality and military expediency.

The bill for the increase of the army was passed on May 18 by a vote of 51 to 40.

In his address at the opening of the next session of Congress (December, 1798) President Adams: (1) promised a future communication on relations with France, and for the present (2) discredited her professions of conciliatory intentions, and (3) noted that her recent decree intended ostensibly to restrain the depredations of French cruisers on American commerce was a mockery, in that the laws which were the sources of the depredations were not repealed. Therefore he recommended (4) that our vigilance be unrelaxed. He himself, he said, had refused the request of Talleyrand to reopen negotiations and send another minister, which would be an act of national humiliation. (5) Accordingly he recommended the prosecution of measures of national defence, especially the increase of the navy.

With these recommendations both the Senate and House concurred. A more stringent act to suspend commercial intercourse with France was passed, and approved on February 9, 1799; a sum not exceeding one million dollars to increase the navy, and a sum not exceeding \$35,000 to increase its equipment, were appropriated on February 22; and a system for the government of the navy was enacted, and approved on March 2. A thorough reorganization of the army was made in an act approved March 3.

On February 15, 1799, the special message on relations with France, which had been promised by the

President in his opening address, was laid before Congress. It called attention to the fact that that article of the French Directory still remained in force by which, "explicitly and exclusively, American seamen were to be treated as pirates if found on board ships of the enemies of France."

In the debates on French relations during this session the Republicans continued to insist on giving the French Government the benefit of the doubt. They were, however, outvoted.

PEACE WITH FRANCE

During this session of Congress the enmity of the President toward Hamilton caused him to repudiate his firm determination not to send another minister to France. In the threat of war with France, Washington had accepted the position of lieutenant-general of the army. He appointed Alexander Hamilton, C. C. Pinckney, and Henry Knox, in respective order, as next to him in command, thus placing the three in the reverse order of their rank in the Revolution. Indeed, Washington, Hamilton, and Pinckney attended the opening of Congress in their new capacities. Now Knox, the absentee, was President Adams's choice for the position next to Washington, and the President yielded to the wish of Washington only upon the latter's express statement that he would resign unless his wishes in the matter were respected. It could not be expected that the aging dictator of the revolution would now be active in the field, and so Hamilton would practically occupy the place of commander-in-chief. As he was already the foremost minister in the cabinet, and regarded by many Federalists as the chief authority in the party, if not also in the administration, Adams clearly realized that, in event of war with France, Hamilton would in all probability become a popular hero and at the next election would be chosen President instead of himself. Therefore he determined to do all in his power to prevent the war. In the exercise of this determination he hastened the downfall of his party.

Talleyrand had signified to Adams that William Vans Murray, minister to Holland, would be acceptable to him as minister to France. Without having given any previous intimation of his intention, on February 18, 1799, the President nominated Murray as minister to France, and a few days thereafter added Oliver Ellsworth and (Patrick Henry declining) William R. Davie, Governor of North Carolina, to the commission. The friends of Hamilton in the cabinet and Senate did everything they could to defeat the appointments, but the Democratic Republicans, to whose prejudices the President appealed by stigmatizing the opposing Federalists as "the British faction," joined with the Adams Federalists and were finally able to confirm the nominations. The Federalist party, whose whole strength had been built up on the prospect of war with France, was thus left without a reason for existence.

Fortunately for the President's new policy the envoys found a new government upon their arrival in France during the autumn. Napoleon had returned from Egypt, and he became first consul. With visions of the conquest of Europe and Asia in his brain he was very glad to come to terms with America, which he did in the course of the following year. The convention, signed September 30, 1800, guaranteed the safety of American commerce for the future at the price of the abandonment by the United States of claims for damages in the past. The treaty was ratified by both parties on December 21, 1801; it abrogated all former treaties.

CHAPTER IV

THE LOUISIANA PURCHASE

Treaty with Spain for Free Navigation of the Mississippi—Retraction of Louisiana to France by Spain—President Jefferson's Letter to Robert R. Livingston, Minister to France, on the Subject—He Determines to Purchase New Orleans—Debate in the Senate on the Forcible Seizure of New Orleans: in Favor, James Ross [Pa.], Samuel White [Del.], Gouverneur Morris [N. Y.]; Opposed, John Breckinridge [Ky.], De Witt Clinton [N. Y.], Stevens T. Mason [Va.], James Jackson [Ga.]—Purchase of Louisiana Negotiated—Constitutionality of the Act: Letter of Jefferson on the Subject; Debate in the Senate: Speakers in Favor of Constitutionality, Senator Jackson, Robert Wright [Md.], John Taylor [Va.], Wilson C. Nicholas [Va.], Senator Breckinridge, John Quincy Adams [Mass.]; Opposed, William H. Wells [Del.], Timothy Pickens [Mass.], Uriah Tracy [Ct.]—Ratification of the Treaty.

BY a striking anomaly President Jefferson, the chief advocate of the limitation of Federal powers to those expressly granted in the Constitution, was compelled by circumstances to make a greater extension of those powers than had ever before been attempted. This action was the purchase of Louisiana, the territory owned by France about the mouth of the Mississippi, and west of that river to the Pacific ocean.

From the days of the Confederation it was the unanimous opinion of the fathers of the country that free navigation of the Mississippi was absolutely essential to the existence of the nation, and therefore they were unalterably determined to secure it. France had ceded Louisiana to Spain in 1762, who held it until 1800, when it was retroceded, in exchange for European territory, to France. During the possession by Spain that country excluded other nations from the navigation of the Mississippi. This exclusion was resisted by the United States, which was finally compelled to be satisfied with a suspension of free navigation for twenty-five

years, this being secured by John Jay, as special envoy to Spain, in 1786. Owing to the pressure brought upon the Federal Government by the growing population of the western States (Kentucky and Tennessee) through proposed expeditions against New Orleans in violation of international law, President Washington, in the summer of 1795, sent Thomas Pinckney, then minister to Great Britain, as an envoy extraordinary to Madrid to negotiate a treaty which should secure free navigation for the United States at once. He arrived at a favorable time, Spain, the ally of Great Britain in the war with France, having been compelled by the success of French arms to make a treaty with France. After long negotiations a treaty between Spain and America was concluded in October, by which the Louisiana boundary was fixed in the middle of the Mississippi, southward to the thirty-first degree of latitude, and navigation of the river from source to mouth was made free to both countries, but to no others. New Orleans was made a free port to Americans for three years, at the expiration of which term the privilege was to be renewed or another port given them nearby. It was provided that free ships should make free goods, and privateering should be punished as piracy.

The terms of the treaty were executed in 1798, to the measurable satisfaction of the western population, who, however, still cherished the hope of more thoroughly securing the right to navigate the river by annexing all the contiguous territory.

The news of the retrocession of Louisiana to France in 1800 was accompanied by the alarming rumor that Napoleon Bonaparte intended to reestablish there a strong imperial government which would effectually block the western development of the American republic. Late in 1801 the rumor was confirmed by the report that Bonaparte had sent a great fleet and army ostensibly against San Domingo, which was then in insurrection, but really to take over from Spain possession of New Orleans after they had subdued the rebellion of the "Black Republic." This created a most uneasy feeling in the West, which, however, was allayed by the

general confidence of that Republican region in President Jefferson. This confidence was thoroughly justified.

On April 18, 1802, the President wrote to Robert R. Livingston, minister to France, inquiring into the nature of the cession. In it he said:

"The cession of Louisiana and the Floridas by Spain to France works most sorely on the United States. It completely reverses all the political relations of the United States, and will form a new epoch in our political course. There is on the globe one single spot the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market. France, placing herself in that door, assumes to us the attitude of defiance, . . . [and] seals the union of two nations who, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation, and make the first cannon which shall be fired in Europe the signal for tearing up any settlement she [France] may have made."

According to the treaty with Spain a place of deposit for merchandise was assigned the citizens of the United States in the port of New Orleans. On October 2, 1802, this concession was abrogated by the Spanish *intendant*, to the great indignation of the Western merchants.

The President determined to solve the difficulty by purchasing New Orleans from its new owners. At his instigation the House of Representatives appropriated \$2,000,000 for this purpose, and on January 11, 1803, the Senate confirmed his appointment of James Monroe as special envoy to negotiate, in collaboration with Minister Livingston, with Bonaparte, and, in collaboration with Charles Pinckney, minister to Spain, to get the necessary renunciation of the territory by his Catholic Majesty, Charles IV.

Either the ardent spirits of some of the Federalists could not wait upon the slow processes of diplomacy, or they grasped the opportunity to regain favor with the populace and at the same time discredit the Administration. They endeavored in the Senate to compel the

President to seize at once the territory and so to nullify all his peaceful negotiations. Unfortunately for the attempt the movers were Eastern and Northern Federalists who were forced to make obviously insincere pleas in behalf of the Western and Southern people, since the representatives of these were unanimous in support of the President's policy and presented proofs that their constituents were entirely satisfied to let matters take a peaceful course.

On February 16, 1803, James Ross [Pa.] introduced resolutions in the Senate to the effect that the infraction of the treaty rights in regard to Louisiana was "an aggression hostile to the honor and interest" of the United States, that it did "not consist with the dignity or safety of this Union" to hold rights "so important by a tenure so uncertain," and therefore "that the President be authorized to take possession" of a place of deposit and adopt measures necessary to secure it to the United States; and that he be authorized to call into service not over 50,000 militia, and that \$5,000,000 be appropriated in order to carry out these measures.

John Breckinridge [Ky.] proposed substitute resolutions, which authorized the President only to *prepare* for such action as he might "deem necessary for the security of the territory of the United States."

Ross and Breckinridge defended their respective resolutions. Other speakers were Samuel White [Del.] and Gouverneur Morris [N. Y.], who supported Senator Ross's resolutions; and De Witt Clinton [N. Y.], Stevens T. Mason [Va.], and James Jackson [Ga.], who supported Senator Breckinridge's resolutions. The Breckinridge resolutions were adopted.

CONQUEST OR PURCHASE?

SENATE, FEBRUARY 16-25, 1903

SENATOR ROSS.—Sir, whom does this infraction of the treaty and the natural rights of this country most intimately affect? If the wound inflicted on national honor be not sensibly felt by the whole nation, is there not a large portion of your citizens exposed to immediate ruin by a continuance of this state of

things? The calamity lights upon all those who live upon the western waters. More than half a million of your citizens are by this cut off from a market. What would be the language, what would be the feelings of gentlemen in this House, were such an indignity offered on the Atlantic coast? What would they say if the Chesapeake, the Delaware, or the Bay of New York were shut up and all egress prohibited by a foreign power? And yet none of these waters embrace the interests of so many as the Mississippi. The numbers and the property affected by shutting this river are greater than anything that could follow by the blockade of a river on the Atlantic coast. Every part of the Union is equally entitled to protection, and no good reason can be offered why one part should be less attended to than another.

Fortunately for this country there can be no doubt in the present case, our national right has been acknowledged and solemnly secured by treaty. The treaty has been long in a state of execution. It was violated and denied without provocation or apology. The treaty then is no security. This evident right is one the security of which ought not to be precarious: it is indispensable that the enjoyment of it shall be placed beyond all doubt. So important a right will never be secured while the mouth of the Mississippi is exclusively in the hands of the Spaniards. Caprice and enmity occasion constant interruption. From the very position of our country, from its geographical shape, from motives of complete independence, the command of the navigation of the river ought to be in our hands.

Why submit to a tardy, uncertain negotiation as the only means of regaining what you have lost: a negotiation with those who have wronged you; with those who declare they have no right at the moment they deprive you of yours? When in possession you will negotiate with more advantage. You will then be in the condition to keep others out. You will be in the actual exercise of jurisdiction over all your claims; your people will have the benefits of a lawful commerce. When your determination is known, you will make an easy and an honorable accommodation with any other claimant. The present possessors have no pretence to complain, for they have no right to the country by their own confession. The western people will discover that you are making every effort they could desire for their protection. They will ardently support you in the contest, if a contest becomes necessary. Their all will be at stake, and neither their zeal nor their courage need be doubted.

Suppose that this course be not now pursued. Let me warn gentlemen how they trifle with the feelings, the hopes, and the

fears of such a body of men as those who inhabit the western waters. These men have arms in their hands; the same arms with which they proved victorious over their savage neighbors. They have a daring spirit; they have ample means of subsistence; and they have men disposed to lead them on to revenge their wrongs. Are you certain that they will wait the end of negotiations? When they hear that nothing has been done for their immediate relief, they will probably take their resolution and act. Indeed, from all we have heard, there is great reason to believe that they will or that they may have already taken that resolution.

They know the nature of the obstruction, they know the weakness of the country; they are sure of present success, and they have a bold river to bear them forward to the place of action. They want only a leader to conduct them, and it would be strange if, with such means and such a spirit, a leader should not soon present himself.

Senator Ross prophesied that such an expedition would probably result in the establishment of a new nation under French domination, and hence inimical to the United States. He feared, indeed, that it would lead to the disruption of the Union.

I say, let us go and redress ourselves; you will have the whole nation with you. On no question since the Declaration of Independence has the nation been so unanimous as upon this. It is true we have a lamentable division of political opinion among us which has produced much mischief and may produce much greater than any we have yet felt. But on this question party spirit ought to sink and disappear.

SENATOR WHITE.—We can never have permanent peace on our western waters till we possess ourselves of New Orleans and such other positions as may be necessary to give us the complete and absolute command of the navigation of the Mississippi. We have now such an opportunity of accomplishing this important object as may not be presented again in centuries, and every justification that could be wished for availing ourselves of the opportunity. Spain has dared us to the trial and now bids us defiance; she is yet in possession of that country; it is at this moment within your reach and within your power; it offers a sure and easy conquest: we should have to encounter there now only a weak, inactive, and unenterprising people; but how may a few months vary this scene and darken our prospects! Though not officially informed, we know that the Spanish provinces on

the Mississippi have been ceded to the French, and that they will as soon as possible take possession of them. What may they then expect? When in the last extremity we shall be driven to arms in defence of our indisputable rights where now slumbers on his post with folded arms the sluggish Spaniard, we shall be hailed by the vigilant and alert French grenadier, and in the defenceless garrison that would now surrender at our approach we shall see unfurled the standards that have waved triumphant in Italy, surrounded by impregnable ramparts and defended by the disciplined veterans of Egypt.

But, Mr. President, what is more than all to be dreaded in such hands, it may be made the means of access and corruption to your national councils and a key to your treasury. Should Bonaparte approach the western people, not in the menacing attitude of an enemy, but under the specious garb of a protector and a friend; should he invite them to the free navigation of the river, and give them privileges in trade not heretofore enjoyed; should he send emissaries into their country to court and intrigue with them, he may seduce their affections and thus accomplish by address and cunning what even his force might not be equal to. In this way, having operated upon their passions, having enlisted in his service their hopes and their fears, he may gain an undue ascendancy over them. Should these things be effected, which God forbid—but Bonaparte in a few years has done much more—what, let me ask honorable gentlemen, will be the consequences? I fear even to look them in the face. The degraded countries of Europe that have been enslaved by the divisions and distractions of their councils, produced by similar means, afford us melancholy examples. Foreign influence will gain admittance to your national councils; the First Consul, or his interests, will be represented in the Congress of the United States; this floor may become the theater of sedition and intrigue. You will have a French faction in the Government, and that faction will increase with the rapidly increasing population of the western world. Whenever this period shall arrive it will be the crisis of American glory, and must result either in the political subjugation of the Atlantic States or in their separation from the western country; and I am sure there is no American who does not view as one of the greatest evils that could befall us the dismemberment of this Union. Honorable gentlemen may wrap themselves up in their present imaginary security and say that these things are afar off, or that they can never happen; but let me beseech of them to look well to the measures they are now pursuing, for, on the wisdom, the

promptness, and energy of those measures will depend whether they shall happen or not. And let me tell them, sir, that the want of firmness or judgment in the Cabinet will be no apology for the disgrace and ruin of the nation.

SENATOR BRECKINRIDGE.—Early in the session the House of Representatives was informed by a communication from the President that the Governor of New Orleans had strongly opposed the conduct of the Intendant, declaring that he was acting without authority in refusing the deposit.

The Spanish Minister, who resides here and who stands deservedly high in the confidence of his government, was clearly of opinion that the Intendant was acting without authority, and that redress would be given so soon as the competent authority could interpose. From this state of things what is the course any civilized nation who respects her character or rights would pursue? There is but one course, which is admitted by writers on the laws of nations as the proper one, and is thus described by Vattel in his book, Secs. 336, 338:

"A sovereign ought to show, in all his quarrels, a sincere desire of rendering justice and preserving peace. He is obliged before he takes up arms, and after having taken them up also, to offer equitable conditions, and then alone his arms become just against an obstinate enemy, who refuses to listen to justice or to equity. His own advantage, and that of human society, oblige him to attempt, before he takes up arms, all the pacific methods of obtaining either the reparation of the injury, or a just satisfaction. This moderation, this circumspection, is so much the more proper, and commonly even indispensable, as the action we take for an injury does not always proceed from a design to offend us, and is sometimes a mistake rather than an act of malice: frequently it even happens that the injury is done by inferior persons, without their sovereign having any share in it; and on these occasions it is not natural to presume that he would refuse us a just satisfaction."

This is the course which the President has taken and in which the House of Representatives have expressed, by their resolution, their confidence.

But the gentleman is afraid that if we do not immediately seize the country we shall lose the golden opportunity of doing it. Would your national honor be free from imputation by a conduct of such inconsistency and duplicity? A minister is sent to the offending nation with an olive-branch for the purpose of an amicable discussion and settlement of differences and, before he has scarcely turned his back, we invade the territories of that nation with an army of fifty thousand men! Would such conduct comport with the genius and principles of our Republic, whose true interest is peace and who has hitherto professed to cultivate it with all nations? Would not such a procedure subject us to the just censure of the world, and to the strongest

jealousy of those who have possessions near to us? Would such a procedure meet the approbation of even our own citizens, whose lives and fortunes would be risked in the conflict? And would it not be policy inexcusably rash to plunge this country into war to effect that which the President not only thinks can be effected but is now actually in a train of negotiation? If, on the other hand, negotiation should fail, how different will be the ground on which we stand! We stand acquitted by the world, and, what is of more consequence, by our own citizens and our own consciences. But one sentiment will then animate and pervade the whole, and from thenceforth we will take counsel only from our courage.

SENATOR CLINTON.—If I were called upon to prescribe a course of policy most important for this country to pursue, it would be to avoid European connections and wars. It is our interest and our duty to cultivate peace with sincerity and good faith. As a young nation, pursuing industry in every channel and adventuring commerce in every sea, it is highly important that we should not only have a pacific character but that we should really deserve it. If we manifest an unwarrantable ambition and a rage for conquest, we unite all the great powers of Europe against us. The security of all the European possessions in our vicinity will eternally depend, not upon their strength, but upon our moderation and justice. Look at the Canadas—at the Spanish territories to the south—at the British, Spanish, French, Danish, and Dutch West India islands—at the vast countries to the west, as far as where the Pacific rolls its waves; consider well the eventful consequences that would result if we were possessed by a spirit of conquest; consider well the impression which a manifestation of that spirit will make upon those who would be affected by it. If we are to rush at once into the territory of a neighboring nation with fire and sword for the misconduct of a subordinate officer, will not our national character be greatly injured? Will we not be classed with the robbers and destroyers of mankind? Will not the nations of Europe perceive in this conduct the germ of a lofty spirit and an enterprising ambition which will level them to the earth when age has matured our strength and expanded our powers of annoyance, unless they combine and cripple us in our infancy? May, not the consequences be that we must look out for a naval force to protect our commerce; that a close alliance will result; that we will be thrown at once into the ocean of European politics, where every wave that rolls and every wind that blows will agitate our bark? Is this a desirable state of things? Will the people of this coun-

try be seduced into it by all the colorings of rhetoric and all the arts of sophistry—by vehement appeals to their pride and artful addresses to their cupidity? No, sir. Three-fourths of the American people (I assert it boldly and without fear of contradiction) are opposed to this measure. And would you take up arms with a millstone hanging around your neck? How would you bear up, not only against the force of the enemy, but against the irresistible current of public opinion? The thing, sir, is impossible, the measure is worse than madness; it is wicked beyond the powers of description.

It is in vain for the mover to oppose these weighty considerations by menacing us with an insurrection of the western States, that may eventuate in their seizure of New Orleans without the authority of Government; their throwing themselves into the arms of a foreign power; or in a dissolution of the Union. Such threats are doubly improper—improper as they respect the persons to whom they are addressed, because we are not to be deterred from the performance of our duty by menaces of any kind, from whatever quarter they may proceed; and it is no less improper to represent our western brethren as a lawless, unprincipled banditti who would at once release themselves from the wholesome restraints of law and order, forego the sweets of liberty, and either renounce the blessings of self-government or, like the Goths and Vandals, pour down with the irresistible force of a torrent, upon the countries below and carry havoc and desolation in their train. A separation by a mountain and a different outlet into the Atlantic cannot create any natural collision between the Atlantic and western States; on the contrary, they are bound together by a community of interests and a similarity of language and manners—by the ties of consanguinity and friendship and a sameness of principles. There is no reflecting and well-principled man in this country who can view the severance of the States without horror and who does not consider it as a Pandora's box which will overwhelm us with every calamity; and it has struck me with not a little astonishment that, on the agitation of almost every great political question, we should be menaced with this evil. Last session, when a bill repealing a judiciary act was under consideration, we were told that the eastern States would withdraw themselves from the Union if it should obtain; and we are now informed that, if we do not accede to the proposition before us, the western States will hoist the standard of revolt and dismember the empire. Sir, these threats are calculated to produce the evil they predict and they may possibly approximate the spirit they pretend to warn us

against. They are at all times unnecessary, at all times improper, at all times mischievous, and ought never to be mentioned within these walls.

SENATOR JACKSON.—Peace is the interest of all republics, and war their destruction; it loads and fetters them with debt and entangles not only the present race but posterity. Peace, sir, has been the ruling policy of the United States throughout all her career. If we show the citizens that we are not willing to go to war and load them with taxes, they will all be with us when a necessity for war arrives. What, sir, was the policy of America from the commencement of the Revolution? At that day did we hastily go to war? No; we tried every peaceable means to avoid it, and those means induced a unanimity in the people.

At the present moment, sir, the people are averse to war; they are satisfied with the steps of the executive; they wish negotiation. If you adopt these resolutions they will be still divided; if you negotiate and fail in that negotiation—if you cannot obtain a redress of the injury which they feel as well as you, they will go all lengths with you and be prepared for any event; you will have this advantage: you will be unanimous, and America united is a match for the world. In such a case, sir, every man will be anxious to march, he would go himself if called on, and whether the sluggish Spaniard or the French grenadier commands New Orleans it must fall; they will not be able to resist the brave and numerous hosts of our western brethren, who are so much interested in the injury complained of. New Orleans must belong to the United States; it must come to us in the course of human events, it will naturally fall into our hands by gradual but inevitable causes, as sure and certain as manufactures arise from increased population and the plentiful products of agriculture and commerce. But let it be noticed that, if New Orleans by a refusal of justice falls into our hands by force, the Floridas, as sure as fate, fall with it. Good faith forbids encroachment on a pacific ally; but if hostility shows itself against us, interest demands it; Georgia in such case could not do without it. God and nature have destined New Orleans and the Floridas to belong to this great and rising empire. As natural bounds to the south are the Atlantic, the Gulf of Mexico, and the Mississippi, and the world at some future day cannot hold them from us.

SENATOR MORRIS.—In my opinion, there is nothing worth fighting for but national honor; for in the national honor is involved the national independence. I know that a State may find

itself in such unpropitious circumstances that prudence may force a wise Government to conceal the sense of indignity. But the insult should be engraved on tablets of brass with a pencil of steel. And, when that time and chance which happen to all shall bring forward the favorable moment, then let the avenging arm strike him. It is by avowing and maintaining this stern principle of honor that peace can be preserved.

What is the state of things? There has been a cession of the island of New Orleans and of Louisiana to France. Whether the Floridas have also been ceded is not yet certain. Now, sir, had Spain a right to make this cession without our consent? Gentlemen have taken it for granted that she had. But I deny the position. No nation has a right to give another a dangerous neighbor without her consent. He who renders me insecure, he who hazards my peace and exposes me to imminent danger, commits an act of hostility against me and gives me the rights consequent on that act. It is among the first limitations to the exercise of the rights of property that we must so use our own as not to injure another; and it is under the immediate sense of this restriction that nations are bound to act toward each other.

But it is not this transfer alone. There are circumstances both in the time and in the manner of it which deserve attention. I ask, was this a public treaty? No. Was official notice of it given to the Government of this country? Was it announced to the President of the United States in the usual forms of civility between nations who duly respect each other? It was not. Had this transaction been intended fairly it would have been told frankly. But it was secret because it was hostile. The First Consul, in the moment of terminating his differences with you, sought the means of future influence and control. He found and secured a pivot for that immense lever by which, with potent arm, he means to subvert your civil and political institutions. Has the King of Spain, has the First Consul of France, no means of making such communication to the President of the United States? Yes, sir, we have a minister in Spain; we have a minister in France. Nothing was easier, and yet nothing has been done. Our first magistrate has been treated with contempt; and through him our country has been insulted.

With that meek and peaceful spirit now so strongly recommended we submitted to this insult and what followed? That which might have been expected—a violation of our treaty. An open and direct violation by a public officer of the Spanish Government. Furthermore, the Intendant, as if determined to try the extent of your meekness, forbids to your citizens all com-

munication with those who inhabit the shores of the Mississippi. Though they should be starving the Spaniard is made criminal who should give them food. Fortunately the waters of the river are potable, or else we should be precluded from the common benefits of nature, the common bounty of heaven. What then, I ask, is the amount of this savage conduct? Sir, it is war. Open and direct war. And yet gentlemen recommend peace and forbid us to take up the gauntlet of defiance.

Sir, I repeat to you that I wish for peace—real, lasting, honorable peace. To obtain and secure this blessing let us by a bold and decisive conduct convince the powers of Europe that we are determined to defend our rights; that we will not submit to insult; that we will not bear degradation. This is the conduct which becomes a generous people. This conduct will command the respect of the world. Nay, sir, it may rouse all Europe to a proper sense of their situation. They see that the balance of power on which their liberties depend is, if not destroyed, in extreme danger. They know that the dominion of France has been extended by the sword over millions who groan in the servitude of their new masters. These unwilling subjects are ripe for revolt. The empire of the Gauls is not like that of Rome, secured by political institutions. It may yet be broken. But, whatever may be the conduct of others, let us act as becomes ourselves. I cannot believe, with my honorable colleague, that three-fourths of America are opposed to vigorous measures. I cannot believe that they will meanly refuse to pay the sums needful to vindicate their honor and support their independence. Sir, this is a libel on the people of America. They will disdain submission to the proudest sovereign on earth. They have not lost the spirit of seventy-six. But, sir, if they are so base as to barter their rights for gold; if they are so vile that they will not defend their honor; they are unworthy of the rank they enjoy, and it is no matter how soon they are parceled out among better masters.

SENATOR MASON.—The resolutions of the gentleman from Pennsylvania [Mr. Ross] go at once to the point of war. Indeed, he told us that it is not war—it was only going and taking peaceable possession of New Orleans! How did the gentleman mean to go, and how take peaceable possession? Would he march at the head of the *posse comitatus*? No! he would march at the head of fifty thousand militia, and he would send forth the whole naval and regular force, armed and provided with military stores. He would enter their island, set fire to their warehouses and bombard their city, desolate their farms

and plantations, and, having swept all their habitations away, after wading through streams of blood, he would tell those who had escaped destruction: we do not come here to make war on you—we are a very moderate, tender-hearted kind of neighbors and are come here barely to take peaceable possession of your territory! Why, sir, this is too naked not to be an insult to the understanding of a child!

But the gentleman from New York [Mr. Morris] did not trifle with the Senate in such a style; he threw off the mask at once, and, in a downright manly way, fairly told us that he liked war—that it was his favorite mode of negotiating between nations; that war gave dignity to the species—that it drew forth the most noble energies of humanity! That gentleman scorned to tell us that he wished to take peaceable possession. No! He could not snivel; his vast genius spurned huckstering; his mighty soul would not bear to be locked up in a petty warehouse at New Orleans; he was for war—terrible, glorious havoc! He tells you plainly that you are not only to recover your rights, but you must remove your neighbors from their possessions and repel those to whom they may transfer the soil; that Bonaparte's ambition is insatiable; that he will throw in colonies of Frenchmen, who will settle on your frontier for thousands of miles round about (when he comes there); and he does not forget to tell you of the imminent dangers which threaten our good old friends, the English. He tells you that New Orleans is the lock and you must seize upon the key, and shut the door against this terrible Bonaparte or he will come with his legions, and, as Gulliver served the Lilliputians, wash you off the map. Not content, in his great care for your honor and glory, as a statesman and a warrior he turns prophet to oblige you—your safety in the present year or the next does not satisfy him—his vast mind, untrammelled by the ordinary progressions of chronology, looks over ages to come with a faculty bordering on omniscience, and conjures us to come forward and regulate the decrees of Providence at ten thousand years' distance.

We have been told that Spain had no right to cede Louisiana to France; that she had ceded to us the privilege of deposit, and had, therefore, no right to cede her territory without our consent! Are gentlemen disposed to wage war in support of this principle? Because she has given us a little privilege—a mere indulgence on her territory—is she thereby constrained from doing anything for ever with her immense possessions? No doubt if the gentleman [Mr. Morris] were to be the negotiator

on this occasion he would say: "You mean to cede New Orleans; no, gentlemen, I beg your pardon, you cannot cede that, for we want it ourselves; and, as to the Floridas, it would be very indiscreet to cede that, as, in all human probability, we shall want that also in less than five hundred years from this day; and then, as to Louisiana, you surely could not think of that, for in something less than a thousand years, in the natural order of things, our population will progress toward that place also."

We are also told that the power of the Chief Consul is so great that he puts up and pulls down all the nations of the old world at discretion, and that he can do so with us. Yet we are told by the wonderful statesman who gives us this awful information that we must go to war with this maker and destroyer of governments. If, after the unceasing pursuit of empire and conquest, which is thus presented to us, we take possession of his territory, from the gentleman's own declarations, what are we to expect, only that this wonderful man—who never abandons an object; who thinks his own and the nation's honor pledged to go through whatever he undertakes—will next attack us? Does the gentleman think that this terrible picture, which his warm imagination has drawn, is a conclusive argument for proceeding to that war which he recommends?

On April 11, 1803, the day before Monroe's arrival at Paris, Bonaparte, who was greatly in need of money to prosecute his designs of European conquest, invited Minister Livingston to make an offer for the whole of the vast territory known as Louisiana. Monroe and Livingston offered \$10,000,000. The price was finally fixed at \$15,000,000, a sum which included \$3,750,000 in claims of American citizens against France for depredations on commerce.¹ The treaty was signed on April 30, 1803.

It is probable that Bonaparte, in making the treaty, broke his faith with Spain, there having been a secret understanding on the retrocession of the territory from Spain to France that the territory would not be alienated. Spain at once protested against the sale to America, for she saw that Florida, now surrounded by an American territory, would on the first occasion fall into

¹ For many years afterward the settlement of these "French Spoliation Claims," as they were called, arose again and again in Congress, creating extended discussions.

the hands of the United States, and that her possession of Mexico was also greatly endangered by contiguity with the expanding American republic. Indeed, Spain did not consent to the transfer of Louisiana for a number of years, during which she preserved a hostile attitude toward the United States that, in the opinion of a number of American statesmen, justified our going to war against her. The Federalist opponents of the treaty in the Senate seized upon her protest as an argument against ratification, saying that Bonaparte was selling what he had no right to dispose of, and therefore that we were not acquiring a clear title, and that the cloud upon it might assume the proportions of a storm of war sweeping over the sea from the tricked and justly indignant Spain. The force of this argument, however, was weakened by the one they had previously made in urging the forcible seizure of New Orleans while it was yet in possession of the "sluggish Spaniard slumbering on his post," and before it was occupied by "the vigilant French grenadier."

The Democrats were exultant over the treaty, hailing it as the greatest achievement yet accomplished by the nation—one that assured for ages to come the growth and development as well as the integrity of the Union. Jefferson in private acknowledged that the act was not warranted by the national charter, asserting, however, that it could be cured of all constitutional defects by the ratification of Congress. In a letter to the Administration leader in the Senate, John Breckinridge, Jefferson wrote, on August 12, 1803:

"The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The executive, in seizing the fugitive occurrence which so much advances the good of their country, have done an act beyond the Constitution. The legislature, in casting behind them metaphysical subtleties and risking themselves like faithful servants, must ratify and pay for it and throw themselves on their country for doing for them, unauthorized, what we know they would have done for themselves had they been in a situation to do it. It is the case of a guardian investing the money of his ward in purchasing an important adjacent

territory and saying to him when of age, 'I did this for your good; I pretend to no right to bind you; you may disavow me and I must get out of the scrape as I can; I thought it my duty to risk myself for you.'"

The policy suggested by the President was followed by the Democratic Senators with great tactical adroitness. Fortunately for them the first Federalist speaker who opposed the treaty did so, not on the ground of the unconstitutionality of the actions of its American negotiators, but because of the cloud on the title of the purchased territory. This objection was readily answered, and the Opposition was thereby placed on the defensive, while the Administration was shown to be, on this point, exercising its constitutional right. This gave the appearance that its *main* action was constitutional, and therefore the Democrats generously admitted that, in the apparently minor points (though really major), there was room for debate as to whether or not the letter of the Constitution had been followed, and appealed to the patriotism of their opponents to waive the points, since all defects in the treaty could be removed by the Senate's action. This policy won over all but the extreme partisans among the Federalists, and the treaty was ratified by a vote of 26 to 5.

In this debate the following speakers were prominent: James Jackson [Ga.], Robert Wright [Md.], John Taylor [Va.], Wilson C. Nicholas [Va.], John Breckinridge [Ky.], and John Quincy Adams [Mass.], in the affirmative; and William H. Wells [Del.], Timothy Pickens [Mass.], and Uriah Tracy [Conn.], in the negative. Mr. Adams had recently been appointed to the Senate. Although he was nominally a Federalist his previous career as a diplomat had removed him from the evil influence of partisanship as well as inclined him to give a free rein to the President in treaty making. Accordingly he supported the treaty, while confessing the constitutional objections to it, and advising that the Constitution be so amended as to permit, without question, such territorial extension. In such recommendation he was in thorough accord with the view of the President.

CONSTITUTIONALITY OF THE LOUISIANA PURCHASE

SENATE, NOVEMBER 3, 1803

SENATOR WELLS.—There are two acts necessary to be performed to carry the present treaty into effect—one by the French Government, the other by our own. They are to deliver us a fair and effectual possession of the ceded territory; and then, and not till then, are we to pay the purchase money. We have already authorized the President to receive possession. This coöperation on our part was requisite to enable the French to comply with the stipulation they had made; they could not deliver unless somebody was appointed to receive. In this view of the subject, the question which presents itself to my mind is: who shall judge whether the French Government does, or does not, faithfully comply with the previous condition? The bill on your table gives to the President this power. I am for our retaining and exercising it ourselves. I may be asked: why not delegate this power to the President? Sir, I answer by inquiring why we should delegate it? To us it properly belongs; and, unless some advantage will be derived to the United States, it shall not be transferred with my consent. Congress will be in session at the time that the delivery of the ceded territory takes place; and, if we should then be satisfied that the French have executed with fidelity that part of the treaty which is incumbent upon them first to perform, I pledge myself to vote for the payment of the purchase money. This appears to me, arguing upon general principles, to be the course which ought to be pursued, even supposing there were attending this case no particular difficulties. But in this especial case are there not among the archives of the Senate sufficient documents, and which have been withheld from the House of Representatives, to justify an apprehension that the French Government was not invested with the capacity to convey this property to us, and that we shall not receive that kind of possession which is stipulated for by the treaty? I am not permitted, by the order of this body, to make any other than this general reference to those documents. Suffice it to say that they have strongly impressed me with an opinion that, even if possession is rendered to us, the territory will come into our hands without any title to justify our holding it.

SENATOR JACKSON.—The honorable gentleman [Mr. Wells] has said that the French have no title, and, having no title herself, we can derive none from her. Is not, I ask, the King of Spain's proclamation, declaring the cession of Louisiana

to France, and his orders to his governor and officers to deliver it to France, a title? Do nations give any other?

The treaty of St. Ildefonso [whereby Spain ceded Louisiana back to France] was the groundwork of the cession, and, whatever might have been the terms to be performed by France, the King of Spain's proclamation and orders have declared to all the world that they were complied with.

Last session we were impressed with the necessity of taking immediate possession of the island of New Orleans in the face of two nations, and now we entertain doubts if we can combat the weakest of those powers; and we are further told we are going to sacrifice the immense sum of fifteen millions of dollars, and have to go to war with Spain for the country afterwards; when, last session, war was to take place at all events, and no costs were equal to the object. Gentlemen seem to be displeased because we have procured it peaceably, and at probably ten times less expense than it would have cost us had we taken forcible possession of New Orleans alone, which, I am persuaded, would have involved us in a war which would have saddled us with a debt of from one to two hundred millions, and perhaps have lost New Orleans, and the right of deposit, after all. I again repeat, sir, that I do not believe that Spain will venture war with the United States. I believe she dare not; if she dare, she will pay the costs. The Floridas will be immediately ours; they will almost take themselves. The inhabitants pant for the blessings of your equal and wise government; they ardently long to become a part of the United States. An officer, duly authorized, and armed with the bare proclamation of the President, would go near to take them; the inhabitants by hundreds would flock to his standard, the very Spanish force itself would assist in their reduction; it is composed principally of the Irish brigade and Creoles—the former disaffected, and the latter the dregs of mankind.

Exclusive, however, of the loss of the Floridas, the road to Mexico is now open to us, which, if Spain acts in an amicable way, I wish may, and hope will, be shut, as respects the United States, for ever. For these reasons, I think, sir, Spain will avoid a war in which she has nothing to gain and everything to lose.

SENATOR WRIGHT.—The honorable gentleman from Delaware [Mr. Wells] says we ought to be satisfied that the possession stipulated by the treaty shall have been delivered up before we pass this bill. Has he forgot that, by the Constitution, the President is to superintend the execution of the law? Or has

he forgot that treaties are the supreme law of the land? Or why, while he professes to respect this Constitution, does he oppose the commission of the execution of this law to that organ of the Government to which it has been assigned by the Constitution? Why, I ask, does he distrust the President? Has he not been, throughout the whole of this business, very much alive to the peaceful acquisition of this immense territory, and the invaluable waters of the Mississippi? A property which, but the other day, we were told was all-important, and so necessary to our political existence that if it was not obtained the western people would sever themselves from the Union. This property, for which countless millions were then proposed to be expended, and the best blood of our citizens to be shed, and which then was to be had at all hazards, *per fas aut per nefas*, seems now to have lost its worth, and it would seem as if some gentlemen could not be satisfied with the purchase, because our title was not recorded in the blood of its inhabitants. But that this is not the wish of the American people has been unequivocally declared by their immediate representatives in Congress, as well as by this House, who had each expressed their approbation of the peaceful title we had acquired, by majorities I thought not to be misunderstood. And the gentleman, although he voted for the ratification of the treaty, now again calls on us to investigate the title. It is certainly too late.

SENATOR PICKERING.—A treaty to be obligatory must not contravene the Constitution, nor contain any stipulations which transcend the powers therein given to the President and Senate. The treaty between the United States and the French republic, professing to cede Louisiana to the United States, appeared to him to contain such an exceptionable stipulation—a stipulation which cannot be executed by any authority now existing. It is declared in the third article, that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States." But neither the President and Senate, nor the President and Congress, are competent to such an act of incorporation.

The assent of each individual State is necessary for the admission of a foreign country as an associate in the Union; in like manner as in a commercial house, the consent of each member would be necessary to admit a new partner into the company; and whether the assent of every State to such an indispensable amendment is attainable is uncertain.

I have never doubted the right of the United States to acquire new territory, either by purchase or by conquest, and

to govern the territory so acquired as a dependent province; and in this way might Louisiana become a territory of the United States, and receive a form of government infinitely preferable to that to which its inhabitants are now subject.

SENATOR TAYLOR.—There have been, Mr. President, two objections made against the treaty; one that the United States cannot constitutionally acquire territory; the other that the treaty stipulates for the admission of a new State into the Union; a stipulation which the treaty-making power is unable to comply with. To these objections I shall endeavor to give answers not heretofore urged.

Before confederation each State in the Union possessed a right, as attached to sovereignty, of acquiring territory, by war, purchase, or treaty. This right must be either still possessed or forbidden both to each State and to the General Government, or transferred to the General Government. It is not possessed by the States separately, because war and compacts with foreign powers and with each other are prohibited to a separate State; and no other means of acquiring territory, exist. By depriving every State of the means of exercising the right of acquiring territory, the Constitution has deprived each separate State of the right itself. Neither the means nor the right of acquiring territory are forbidden to the United States; on the contrary, in the fourth article of the Constitution, Congress is empowered "to dispose of and regulate the territory belonging to the United States." This recognizes the right of the United States to hold territory. The means of acquiring territory consist of war and compact; both are expressly surrendered to Congress and forbidden to the several States; and no right in a separate State to hold territory without its limits is recognized by the Constitution, nor any mode of effecting it possible, consistent with it. The means of acquiring and the right of holding territory, being both given to the United States, and prohibited to each State, it follows that these attributes of sovereignty once held by each State are thus transferred to the United States; and that, if the means of acquiring and the right of holding are equivalent to the right of acquiring territory, then this right merged from the separate States to the United States, as indispensably annexed to the treaty-making power, and the power of making war; or, indeed, is literally given to the General Government by the Constitution.

SENATOR TRACY.—The paragraph in the Constitution which says that "new States may be admitted by Congress into this Union" has been quoted to justify this treaty. To this two

answers may be given, either of which are conclusive. First, if Congress have the power collectively of admitting Louisiana, it cannot be vested in the President and Senate alone. Secondly, Congress have no power to admit new foreign states into the Union without the consent of the old partners. The article of the Constitution, if any person will take the trouble to examine it, refers to domestic States only, and not at all to foreign states; and it is unreasonable to suppose that Congress should, by a majority only, admit new foreign states, and swallow up, by it, the old partners, when two-thirds of all the members are made requisite for the least alteration in the Constitution. The words of the Constitution are completely satisfied by a construction which shall include only the admission of domestic States, who were all parties to the Revolutionary war, and to the compact; and the spirit of the association seems to embrace no other. But, I repeat it, if the Congress collectively has this power the President and Senate cannot, of course, have it exclusively.

I think, sir, that, from a fair construction of the Constitution and an impartial view of the nature and principles of our association, the President and Senate have not the power of thus obtruding upon us Louisiana.

SENATOR BRECKINRIDGE.—No gentleman has yet ventured to deny that it is incumbent on the United States to secure to the citizens of the western waters the uninterrupted use of the Mississippi. Under this impression of duty what has been the conduct of the General Government, and particularly of the gentlemen now in the opposition, for the last eight months? When the right of deposit was violated by a Spanish officer without authority from his government, these gentlemen considered our national honor so deeply implicated, and the rights of the western people so wantonly violated, that no atonement or redress was admissible, except through the medium of the bayonet. Negotiation was scouted at. It was deemed pusillanimous, and was said to exhibit a want of fellow-feeling for the western people, and a disregard to their essential rights. Fortunately for their country the counsel of these gentlemen was rejected, and their war measures negatived. The so much scouted process of negotiation was, however, persisted in, and, instead of restoring the right of deposit and securing more effectually for the future our right to navigate the Mississippi, the Mississippi itself was acquired, and everything which appertained to it. I did suppose that those gentlemen who, at the last session, so strongly urged war measures for the attainment of this object, upon an avowal that it was too important to trust

to the tardy and less effectual process of negotiation, would have stood foremost in carrying the treaty into effect, and that the peaceful mode by which it was acquired would not lessen with them the importance of the acquisition.

Permit me to examine some of the principal reasons which are deemed so powerful by gentlemen as to induce them to vote for the destruction of this treaty. Unfortunately for the gentlemen, no two of them can agree on the same set of objections; and, what is still more unfortunate, I believe there is no two of them concur in any one objection. In one thing only they seem to agree, and that is to vote against the bill. An honorable gentleman from Delaware [Mr. White] considered the price to be enormous. An honorable gentleman from Connecticut, who has just sat down [Mr. Tracy], says he has no objection whatever to the price; it is, he supposes, not too much. An honorable gentleman from Massachusetts [Mr. Pickering] says that France acquired no title from Spain, and therefore our title is bad. The same gentleman from Connecticut [Mr. Tracy] says he has no objection to the title of France; he thinks it a good one. The gentleman from Massachusetts [Mr. Pickering] contends that the United States cannot, under the Constitution, acquire foreign territory. The gentleman from Connecticut is of a different opinion, and has no doubt but that the United States can acquire and hold foreign territory; but that Congress alone have the power of incorporating that territory into the Union. Of what weight, therefore, ought all their lesser objections be entitled to when they are at war among themselves on the greater one?

The same gentleman has told us that this acquisition will, from its extent, soon prove destructive to the Confederacy.

This is an old and hackneyed doctrine: that a republic ought not to be too extensive. But the gentleman has assumed two facts and then reasoned from them: First, that the extent is too great; and, secondly, that the country will be soon populated. I would ask, sir, what is his standard extent for a republic? How does he come at that standard? Our boundary is already extensive. Would his standard extent be violated by including the island of Orleans and the Floridas? I presume not, as all parties seem to think their acquisition, in part or in whole, essential. Why not, then, acquire territory on the west as well as on the east side of the Mississippi? Is the Goddess of Liberty restrained by water courses? Is she governed by geographical limits? Is her dominion on this continent confined to the east side of the Mississippi? So far from be-

lieving in the doctrine that a Republic ought to be confined within narrow limits, I believe, on the contrary, that the more extensive its dominion the more safe and more durable it will be. In proportion to the number of hands you intrust the precious blessings of a free government to, in the same proportion do you multiply the chances for their preservation. I entertain, therefore, no fears for the Confederacy on account of its extent.

The gentleman from Connecticut [Mr. Tracy] admits explicitly that Congress may acquire territory and hold it as a territory, but cannot incorporate it into the Union. By this construction he admits the power to acquire territory, a modification infinitely more dangerous than the unconditional admission of a new State; for, by his construction, territories and citizens are considered and held as the property of the Government of the United States, and may consequently be used as dangerous engines in the hands of the Government against the States and people.

The same gentleman, in reply to the observations which fell from the gentleman from South Carolina as to the admission of new States, observes that, although Congress may admit new States, the President and Senate, who are but a component part, cannot. Apply this doctrine to the case before us. How could Congress by any mode of legislation admit this country into the Union until it was acquired? And how can this acquisition be made except through the treaty-making power? Could the gentleman rise in his place and move for leave to bring in a bill for the purchase of Louisiana and its admission into the Union? I take it that no transaction of this or any other kind with a foreign power can take place except through the executive department, and that in the form of a treaty, agreement, or convention. When the acquisition is made Congress can then make such disposition of it as may be expedient.

SENATOR ADAMS.—It has been argued that the bill ought not to pass because the treaty itself is unconstitutional, or, to use the words of the gentleman from Connecticut, an extra-constitutional act; because it contains engagements which the powers of the Senate were not competent to ratify, the powers of Congress not competent to confirm, and, as two of the gentlemen have contended, not even the legislatures of the number of States requisite to effect an amendment of the Constitution are adequate to sanction. It is, therefore, say they, a nullity; we cannot fulfill our part of its conditions, and on our failure in the performance of any one stipulation, France may consider

herself as absolved from the obligations of the whole treaty on her. For my own part, I am free to confess that the third article, and more especially the seventh, contain engagements placing us in a dilemma from which I see no possible mode of extricating ourselves but by an amendment, or rather an addition, to the Constitution. The gentleman from Connecticut [Mr. Tracy], both on a former occasion and in this day's debate, appears to me to have shown this to demonstration. But what is this more than saying that the President and Senate have bound the nation to engagements which require the coöperation of more extensive powers than theirs to carry them into execution? Nothing is more common, in the negotiations between nation and nation, than for a minister to agree to and sign articles beyond the extent of his powers. This is what your ministers, in the very case before you, have confessedly done. It is well known that their powers did not authorize them to conclude this treaty; but they acted for the benefit of their country, and this House by a large majority has advised to the ratification of their proceedings. Suppose, then, not only that the ministers who signed, but the President and Senate who ratified this compact, have exceeded their powers. Suppose that the other House of Congress, who have given their assent by passing this and other bills for the fulfillment of the obligations it imposes on us, have exceeded their powers. Nay, suppose even that the majority of States competent to amend the Constitution in other cases could not amend it in this without exceeding their powers—and this is the extremest point to which any gentleman on this floor has extended his scruples—suppose all this, and there still remains in the country a power competent to adopt and sanction every part of our engagements, and to carry them entirely into execution. For, notwithstanding the objections and apprehensions of many individuals, of many wise, able, and excellent men, in various parts of the Union, yet such is the public favor attending the transaction which commenced by the negotiation of this treaty, and which, I hope, will terminate in our full, undisturbed, and undisputed possession of the ceded territory, that I firmly believe if an amendment to the Constitution, amply sufficient for the accomplishment of everything for which we have contracted, shall be proposed, as I think it ought; it will be adopted by the legislature of every State in the Union. We can therefore fulfill our part of the conventions, and this is all that France has a right to require of us.

SENATOR NICHOLAS.—The gentleman from Connecticut [Mr. Tracy] must consider the grant of power to the legislature as a

limitation of the treaty-making power, for he says "that the power to admit new States and to make citizens is given to Congress, and not to the treaty-making power"; therefore an engagement in a treaty to do either of these things is unconstitutional. I cannot help expressing my surprise at that gentleman's giving that opinion, and I think myself justifiable in saying that if it is now his opinion it was not always so. The contrary opinion is the only justification of that gentleman's approbation of the British treaty, and of his vote for carrying it into effect. By that treaty a great number of persons had a right to become American citizens immediately; not only without a law but contrary to an existing law. And by that treaty many of the powers specially given to Congress were exercised by the treaty-making power. It is for gentlemen who supported that treaty to reconcile the construction given by them to the Constitution in its application to that instrument with their exposition of it at this time.

The proposal of Senator Adams to amend the Constitution in order to legalize the treaty was not supported, being out of line with the previous policy of the Federalists and not agreeable to the desires of the Democrats now that they were in power in the executive as well as legislative branches of the Government. Accordingly it was not acted upon, and thus the ratification of the Louisiana Purchase marked the greatest step forward that had yet been taken in the broad construction of the Constitution in the matter of increasing the power of the President.

in his message. Referring to the anomaly that the commerce with France for which American vessels were captured and condemned by Great Britain was practiced with impunity by her own merchantmen, he said:

New principles have been interpolated into the law of nations, founded neither in justice nor the usage or acknowledgment of nations. According to these, a belligerent takes to itself a commerce with its own enemy which it denies to a neutral, on the ground of its aiding that enemy in the war. But reason revolts at such an inconsistency, and, the neutral having equal right with the belligerent to decide the question, the interests of our constituents, and the duty of maintaining the authority of reason, the only umpire between just nations, impose on us the obligation of providing an effectual and determined opposition to a doctrine so injurious to the rights of peaceable nations. Indeed, the confidence we ought to have in the justice of others still countenances the hope that a sounder view of those rights will, of itself, induce from every belligerent a more correct observance of them.

On January 17, 1806, the President sent a special message to the Senate on the subject, giving an account of the actions he had taken, and asking that Congress take the matter into consideration. He said:

The right of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country (with the exception of blockaded ports and contraband of war), was believed to have been decided between Great Britain and the United States by the sentence of their commissioners mutually appointed to decide on that and other questions of difference between the two nations, and by the actual payment of the damages awarded by them against Great Britain for the infractions of that right. When, therefore, it was perceived that the same principle was revived, with others more novel, and extending the injury, instructions were given to the Minister Plenipotentiary of the United States at the Court of London, and remonstrances duly made by him on the subject, as will appear by documents transmitted herewith. These were followed by a partial and temporary suspension only, without any disavowal of the principle. He has, therefore, been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on rights

CHAPTER V

THE EMBARGO

Messages of President Thomas Jefferson on Great Britain's Violation of American Commercial Rights—Resolutions of Congress to Prohibit British Imports—Debate: Speech of John Randolph [Va.] in Opposition: "The Folly of Retaliation"—The President Refuses to Sign the Monroe-Pinkney Treaty with Great Britain—Great Britain's "Orders in Council"—Congress in Retaliation Enacts an Embargo—Debate: in Favor, Richard M. Johnson [Ky.], John Love [Va.], James Fisk [Vt.], George W. Campbell [Tenn.]; Opposed, John Randolph [Va.], Josiah Masters [N. Y.], Philip B. Key [Md.]—Popular Opposition to the Embargo—Opposing Views of Embargo by James Hillhouse [Conn.] and William B. Giles [Va.] on "Public Honor vs. Private Interest"—New England Threatens Secession—Great Britain Invites a Compromise with America—Congress Replaces Embargo with a Non-Intercourse Act—Obituary of the Embargo by Representative James Sloan [N. J.].

A STATE of war had existed between France and Great Britain since May 16, 1803, though actual hostilities did not begin until two years later. In May, 1805, the British Court of Appeals in the case of the captured American vessel *Essex* reversed the former rule of the British admiralty courts, viz., that in time of war "landing goods and paying duties in a neutral country breaks the continuity of the voyage, and so legalizes the trade," and held that such transshipment, *if evidently fraudulent*, did not absolve the vessel from capture and condemnation. Immediately following the decision British warships and privateers at once began to prey on American vessels which were carrying through neutral countries the trade between France and her colonies.

MESSAGES ON BRITISH AGGRESSION

President Jefferson brought the matter to the attention of Congress at its next session in December, 1805,

too evident and too important to be surrendered. In the mean time the evil is proceeding, under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of Congress.

The Senate referred the matter to a committee, which on February 12, 1806, presented a resolution that importation of British manufactures should be prohibited until equitable arrangements had been made between Great Britain and the United States on the differences between the two governments. This was adopted on April 10, by a vote of 19 to 9.

On January 29, 1806, a similar resolution had been proposed in the House of Representatives by Andrew Gregg [Pa.]. Other resolutions of the same import were presented by Joseph Clay [Pa.] on February 5, and by Joseph B. Nicholson [Md.] on February 10. The subject came up for consideration on March 5, and was debated until March 17, when Mr. Nicholson's resolution was adopted by a vote of 87 to 35.

These measures were evidently inspired by the President and his Secretary of State, James Madison, with both of whom commercial retaliation was a favorite policy.¹

The chief opponent of the measure was John Randolph [Va.] the free lance, who on this question allied himself with the Federalists.

¹ One of the last acts of Jefferson as Secretary of State under Washington had been the submission to Congress of a Report on American Commerce, in which he suggested the removal of European restrictions on our trade by countervailing acts where friendly arrangements could not be made. In furtherance of this recommendation Madison submitted to the House in January, 1794, his famous Commercial Resolutions, laying additional duties on manufactures of nations which had no commercial treaties with the United States. Great Britain was especially aimed at, and when, during the debate, that government seized certain American vessels trading with the French West Indies, the restrictions were laid aside in favor of the more drastic measure of an embargo. This was ordered on March 26, 1794. It prevented the embarkation for thirty days of all ships in American ports bound for foreign ports. The obnoxious orders were revoked by Great Britain, and the embargo was removed.

A very interesting report of the debates and proceedings of Congress in reference to the above matters is found in Timothy Pitkin's "Political History of the United States," Volume II, pages 406 to 412.

THE FOLLY OF RETALIATION

JOHN RANDOLPH

I am perfectly aware that on entering upon this subject we go into it manacled, handcuffed, and tongue-tied; gentlemen know that our lips are sealed on subjects of momentous foreign relations, which are indissolubly linked with the present question and which would serve to throw a great light on it in every respect relevant to it. I will, however, endeavor to hobble over the subject as well as my fettered limbs and palsied tongue will enable me to do it.

I am not surprised to hear this resolution discussed by its friends as a war measure. They say (it is true) that it is not a war measure; but they defend it on principles which would justify none but war measures, and seem pleased with the idea that it may prove the forerunner of war. If war is necessary—if we have reached this point—let us have war. But while I have life I will never consent to these incipient war measures, which, in their commencement, breathe nothing but peace, though they plunge at last into war. It has been well observed by the gentleman from Pennsylvania behind me [Mr. J. Clay] that the situation of this nation in 1793 was in every respect different from that in which it finds itself in 1806. Let me ask, too, if the situation of England is not since materially changed? Gentlemen who, it would appear from their language, have not got beyond the horn-book of politics, talk of our ability to cope with the British navy, and tell us of the war of our Revolution. What was the situation of Great Britain then? She was then contending for the empire of the British channel, barely able to maintain a doubtful equality with her enemies, over whom she never gained the superiority until Rodney's victory of the twelfth of April.¹ What is her present situation? The combined fleets of France, Spain, and Holland are dissipated, they no longer exist. I am not surprised to hear men advocate these wild opinions, to see them goaded on by a spirit of mercantile avarice, straining their feeble strength to excite the nation to war, when they have reached this stage of infatuation, that we are an overmatch for Great Britain on the ocean. It is mere waste of time to reason with such persons. They do not deserve anything like serious refutation. The proper arguments for such statesmen are a straight waistcoat, a dark room, water gruel, and depletion.

¹Vice-Admiral George Brydges Rodney defeated the French Admiral DeGrasse in the West Indies, April 12, 1782.

tie, deep and wide as it is, will prove just as good a barrier against his ambition, if directed against you, as the Mediterranean to the power of the Caesars. Do I mean (when I say so) to crouch to the invader? No! I will meet him at the water's edge, and fight every inch of ground from thence to the mountains—from the mountains to the Mississippi.

But, sir, I have yet a more cogent reason against going to war, for the honor of the flag in the narrow seas, or any other maritime punctilio. It springs from my attachment to the Government under which I live. I declare, in the face of day, that this Government was not instituted for the purposes of offensive war. No! It was framed (to use its own language) "for the common defence and the general welfare," which are inconsistent with offensive war. I call that offensive war which goes out of our jurisdiction and limits for the attainment or protection of objects not within those limits and that jurisdiction. As in 1798 I was opposed to this species of warfare, because I believed it would raze the Constitution to its very foundation—so, in 1806, I am opposed to it, and on the same grounds. No sooner do you put the Constitution to this use—to a test which it is by no means calculated to endure—than its incompetency becomes manifest, apparent to all. I fear if you go into a foreign war, for a circuitous, unfair carrying trade, you will come out without your Constitution. Have not you contractors enough yet in this House? Or do you want to be overrun and devoured by commissaries, and all the vermin of contract? I fear, sir, that what are called "the energy men" will rise up again—men who will burn the parchment. We shall be told that our Government is too free; or, as they would say, weak and inefficient. Much virtue, sir, in terms! That we must give the President power to call forth the resources of the nation. That is, to filch the last shilling from our pockets—to drain the last drop of blood from our veins. I am against giving this power to any man, be he who he may. The American people must either withhold this power or resign their liberties. There is no other alternative. Nothing but the most impetuous necessity will justify such a grant. And is there a powerful enemy at our doors? You may begin with a First Consul. From that chrysalis state he soon becomes an emperor. You have your choice. It depends upon your election whether you will be a free, happy, and united people at home, or the light of your Executive Majesty shall beam across the Atlantic in one general blaze of the public liberty.

Much more am I indisposed to war, when, among the first

What is the question in dispute? The carrying trade. What part of it? The fair, the honest, and the useful trade that is engaged in carrying our own productions to foreign markets, and bringing back their productions in exchange? No, sir. It is that carrying trade which covers enemy's property, and carries the coffee, the sugar, and other West India products, to the mother country. No, sir, if this great agricultural nation is to be governed by Salem and Boston, New York and Philadelphia, and Baltimore and Norfolk and Charleston, let gentlemen come out and say so; and let a committee of public safety be appointed from those towns to carry on the Government. I, for one, will not mortgage my property and my liberty to carry on this trade. The nation said so seven years ago—I said so then, and I say so now. It is not for the honest carrying trade of America, but for this mushroom, this fungus of war—for a trade which, as soon as the nations of Europe are at peace, will no longer exist—it is for this that the spirit of avaricious traffic would plunge us into war.

I am forcibly struck on this occasion by the recollection of a remark made by one of the ablest (if not the honestest) ministers that England ever produced. I mean Sir Robert Walpole, who said that the country gentlemen (poor meek souls!) came up every year to be sheared—that they lay mute and patient whilst their fleeces were taking off—but that if he touched a single bristle of the commercial interest the whole sty was in an uproar. It was indeed shearing the hog—"great cry and little wool."

I am averse to a naval war with any nation whatever. I was opposed to the naval war of the last administration, and I am as ready to oppose a naval war of the present administration, should they meditate such a measure. What! shall this great mammoth of the American forest leave his native element and plunge into the water in a mad contest with the shark? Let him beware that his proboscis is not bitten off in the engagement. Let him stay on shore, and not be excited by the mussels and periwinkles on the strand, or political bears in a boat, to venture on the perils of the deep. Gentlemen say, will you not protect your violated rights? and I say, why take to water, where you can neither fight nor swim? Look at France—see her vessels stealing from port to port on her own coast—and remember that she is the first military power of the earth, and as a naval people second only to England.

Let the battle of Actium be once fought and the whole line of sea coast will be at the mercy of the conqueror. The Atlan-

means for carrying it on, I see gentlemen propose the confiscation of debts due by Government to individuals. Does a *bona fide* creditor know who holds his paper? Dare any honest man ask himself the question? 'Tis hard to say whether such principles are more detestably dishonest than they are weak and foolish. What, sir, will you go about with proposals for opening a loan in one hand and a sponge for the national debt in the other? If, on a late occasion, you could not borrow at a less rate of interest than eight per cent., when the Government avowed that they would pay to the last shilling of the public ability, at what price do you expect to raise money with an avowal of these nefarious opinions? God help you if these are your ways and means for carrying on war; if your finances are in the hands of such a chancellor of the exchequer. What are you going to war for? For the carrying trade? Already you possess seven-eighths of it. What is the object in dispute? The fair, honest trade that exchanges the product of our soil for foreign articles for home consumption? Not at all. You are called upon to sacrifice this necessary branch of your navigation, and the great agricultural interest—whose handmaid it is—to jeopardize your best interests for a circuitous commerce, for the fraudulent protection of belligerent property under your neutral flag. Will you be goaded by the dreaming calculations of insatiate avarice to stake your all for the protection of this trade? I do not speak of the probable effects of war on the price of our produce. Severely as we must feel, we may suffice through it. I speak of its reaction on the Constitution. You may go to war for this excrescence of the carrying trade, and make peace at the expense of the Constitution. Your executive will lord it over you, and you must make the best terms with the conqueror that you can. But the gentleman from Pennsylvania (Mr. Gregg) tells you that he is for acting in this, as in all things, uninfluenced by the opinion of any minister whatever—foreign or, I presume, domestic. On this point I am willing to meet the gentleman—am unwilling to be dictated to by any minister, at home or abroad. Is he willing to act on the same independent footing? I have before protested, and I again protest, against secret, irresponsible, overruling influence. The first question I asked when I saw the gentleman's resolution was, "Is this a measure of the cabinet?" Not of an open declared cabinet; but of an invisible, insurmountable, unconstitutional cabinet, without responsibility, unknown to the Constitution. I speak of back-stairs' influence—of men who bring messages to this House, which, although they do not appear on the jour-

nals, govern its decisions. Sir, the first question that I asked on the subject of British relations was, What is the opinion of the cabinet? What measures will they recommend to Congress?—(well knowing that whatever measures we might take they must execute them, and therefore that we should have their opinion on the subject). My answer was (and from a cabinet minister, too), “There is no longer any cabinet.”

At the commencement of this session we received a printed message from the President of the United States, breathing a great deal of national honor and indignation at the outrages we had endured, particularly from Spain. Some of the State legislatures sent forward resolutions pledging their lives, their fortunes, and their sacred honor in support of any measures you might take in vindication of your injured rights. Well, sir, what have you done? You have had resolutions laid upon your table, gone to some expense of printing and stationery—mere pen, ink, and paper, that’s all. Like true political quacks you deal only in handbills and nostrums. Sir, I blush to see the record of our proceedings; they resemble nothing but the advertisements of patent medicines. Here you have “the worm-destroying lozenges,” there “Church’s cough drops”; and, to crown the whole, “Sloan’s vegetable specific,” an infallible remedy for all nervous disorders and vertiges of brain-sick politicians; each man earnestly adjuring you to give his medicine only a fair trial. If, indeed, these wonder-working nostrums could perform but one half of what they promise there is little danger of our dying a political death, at this time at least. But, sir, in politics as in physics, the doctor is oftentimes the most dangerous disease; and this I take to be our case at present.

But, sir, why do I talk of Spain? “There are no longer Pyrenees!” There exists no such nation, no such being as a Spanish King or minister. It is a mere juggle, played off for the benefit of those who put the mechanism into motion. You know, sir, that you have no differences with Spain; that she is the passive tool of a superior power, to whom, at this moment, you are crouching. Are your differences, indeed, with Spain? And where are you going to send your political panacea, resolutions and handbills excepted, your sole arcanum of government, your king cure all? To Madrid? No—to Paris. You know, at least, where the disease lies, and there you apply your remedy. When the nation anxiously demands the result of your deliberations you hang your head and blush to tell. You are afraid to tell. Your mouth is hermetically sealed. Your honor has received a wound which must not take air. After shrinking

from the Spanish jackal, do you presume to bully the British lion? But here the secret comes out. Britain is your rival in trade, and, governed as you are by counting-house politicians, you would sacrifice the paramount interests of your country to wound that rival. For Spain and France you are carriers, and from good customers every indignity is to be endured. Yes, sir, and when a question of great national magnitude presents itself to you, it causes those who now prate about national honor and spirit to pocket any insult; to consider it as a mere matter of debit and credit; a business of profit and loss, and nothing else.

I ask any man who now advocates a rupture with England to assign a single reason for his opinion that would not have justified a French war in 1798? If injury and insult abroad would have justified it we had them in abundance then. But what did the Republicans say at that day? That, under the cover of a war with France, the executive would be armed with a patronage and power which might enable it to master our liberties. They deprecated foreign war and navies, and standing armies, and loans, and taxes. The delirium passed away—the good sense of the people triumphed, and our differences were accommodated without a war. And what is there in the situation of England that invites to war with her? It is true she does not deal so largely in perfectibility, but she supplies you with a much more useful commodity—with coarse woolsens. With less profession, indeed, she occupies the place of France in 1793. She is the sole bulwark of the human race against universal dominion; no thanks to her for it. In protecting her own existence she insures theirs. I care not who stands in this situation, whether England or Bonaparte. I practice the doctrines now that I professed in 1798. I voted against all such projects under the administration of John Adams, and I will continue to do so under that of Thomas Jefferson. Are you not contented with being free and happy at home? Or will you surrender these blessings that your merchants may tread on Turkish and Persian carpets, and burn the perfumes of the East in their vaulted rooms? Gentlemen say it is but an annual million lost, and even if it were five times that amount, what is it compared with your neutral rights? Sir, let me tell them a hundred millions will be but a drop in the bucket if once they launch without rudder or compass into this ocean of foreign warfare. Whom do they want to attack? England. They hope it is a popular thing, and talk about Bunker Hill, and the gallant feats of our Revolution. But is Bunker Hill to be the theater of war? No, sir, you have selected the ocean, and the object of attack is that

very navy which prevented the combined fleets of France and Spain from levying contribution upon you in your own seas; that very navy which, in the famous war of 1798, stood between you and danger. *Quem Deus vult perdere prius dementat.*¹ Are you mad enough to take up the cudgels that have been struck from the nerveless hands of the three great maritime powers of Europe? Shall the planter mortgage his little crop, and jeopardize the Constitution in support of commercial monopoly, in the vain hope of satisfying the insatiable greediness of trade? Administer the Constitution upon its own principles; for the general welfare, and not for the benefit of any particular class of men.

A great deal is said about the laws of nations. What is national law but national power guided by national interest? You yourselves acknowledge and practice upon this principle where you can, or where you dare—with the Indian tribes for instance. I might give another and more forcible illustration. Will the learned lumber of your libraries add a ship to your fleet, or a shilling to your revenue? Will it pay or maintain a single soldier? And will you preach and prate of violations of your neutral rights, when you tamely and meanly submit to the violation of your territory [i. e., by Spain]. Will you collar the stealer of your sheep, and let him escape that has invaded the repose of your fireside—has insulted your wife and children under your own roof? This is the heroism of truck and traffic—the public spirit of sordid avarice. Great Britain violates your flag on the high seas. What is her situation? Contending, not for the dismantling of Dunkirk, for Quebec, or Pondicherry, but for London and Westminster—for life; her enemy violating at will the territories of other nations, acquiring thereby a colossal power that threatens the very existence of her rival. But she has one vulnerable point to the arms of her adversary, which she covers with the ensigns of neutrality; she draws the neutral flag over the heel of Achilles. And can you ask that adversary to respect it at the expense of her existence? and in favor of whom? An enemy that respects no neutral territory of Europe, and not even your own. I repeat that the insults of Spain toward this nation have been at the instigation of France; that there is no longer any Spain. Well, sir, because the French Government does not put this in the *Moniteur* you choose to shut your eyes to it. None so blind as those who will not see. You shut your own eyes, and to blind those of other people you go into conclave, and slink out again and say,

¹ “Whom the gods would destroy they first make mad.”

“a great affair of State!”—*C’est une grande affaire d’Etat!* It seems that your sensibility is entirely confined to the extremities. You may be pulled by the nose and ears, and never feel it, but let your strong box be attacked and you are all nerve—“Let us go to war!” Sir, if they called upon me only for my little *peculium*² to carry it on, perhaps I might give it; but my rights and liberties are involved in the grant, and I will never surrender them while I have life. The gentleman from Massachusetts (Mr. Crowninshield) is for sponging the debt. I can never consent to it; I will never bring the ways and means of fraudulent bankruptcy into your committee of supply. Confiscation and swindling shall never be found among my estimates to meet the current expenditure of peace or war. No, sir, I have said with the doors closed, and I say so when the doors are open, “pay the public debt”; get rid of that dead weight upon your Government—that cramp upon all your measures—and then you may put the world at defiance. So long as it hangs upon you you must have revenue, and to have revenue you must have commerce—commerce, peace. And shall these nefarious schemes be advised for lightening the public burdens; will you resort to these low and pitiful shifts; dare even to mention these dishonest artifices to eke out your expenses, when the public treasure is lavished on Turks and infidels, on singing boys and dancing girls, to furnish the means of bestiality to an African barbarian?

Gentlemen say that Great Britain will count upon our divisions. How? What does she know of them? Can they ever expect greater unanimity than prevailed at the last presidential election? No, sir, it is the gentleman’s own conscience that squeaks. But if she cannot calculate upon your divisions, at least she may reckon upon your pusillanimity. She may well despise the resentment that cannot be excited to honorable battle on its own ground; the mere effusion of mercantile cupidities. Gentlemen talk of repealing the British treaty. And what is all this for? A point which Great Britain will not abandon to Russia, you expect her to yield to you—Russia! indisputably the second power of continental Europe; with not less than half a million of hardy troops; with sixty sail-of-the-line, thirty millions of subjects, and a territory more extensive even than our own—Russia, sir, the storehouse of the British navy, whom it is not more the policy and the interest than the sentiment of that government to soothe and to conciliate—her sole hope of a diversion on the continent, and her only efficient ally. What this

² “Private property—savings.”

formidable power cannot obtain with fleets and armies you will command by writ—with pothooks and hangers. I am for no such policy. True honor is always the same. Before you enter into a contest, public or private, be sure you have fortitude enough to go through with it. If you mean war, say so, and prepare for it: Look on the other side; behold the respect in which France holds neutral rights on land. And if you make the French Emperor monarch of the ocean you may bid adieu to it forever. You may take your leave, sir, of navigation—even of the Mississippi. What is the situation of New Orleans if attacked to-morrow? Filled with a discontented and repining people, whose language, manners, and religion all incline them to the invader—a dissatisfied people, who despise the miserable governor you have set over them—whose honest prejudices and basest passions alike take part against you. You have official information that the town and its dependencies are utterly defenceless and untenable. You have held that post, you now hold it, by the tenure of the naval predominance of England, and yet you are for a British naval war.

There are now but two great commercial nations—Great Britain is one, and the United States the other. When you consider the many points of contact between our interests you may be surprised that there has been so little collision. Sir, to the other belligerent nations of Europe your navigation is a convenience, I might say, a necessary. If you do not carry for them they must starve, at least for the luxuries of life, which custom has rendered almost indispensable; and if you cannot act with some degree of spirit toward those who are dependent upon you as carriers, do you reckon to browbeat a jealous rival, who, the moment she lets slip the dogs of war, sweeps you at a blow from the ocean? And *cui bono?* for whose benefit? The planter? Nothing like it. The fair, honest, real American merchant? No, sir, for renegades; to-day American, to-morrow Danes. Go to war when you will, the property, now covered by the American, will then pass under the Danish, or some other neutral flag. Gentlemen say that one English ship is worth three of ours; we shall therefore have the advantage in privateering. Did they ever know a nation to get rich by privateering? This is stuff, sir, for the nursery. Remember that your products are bulky, as has been stated; that they require a vast tonnage to transport them abroad, and that but two nations possess that tonnage. Take these carriers out of the market. What is the result? The manufactures of England, which (to use a finishing touch of the gentlemen's rhetoric) have received

the finishing stroke of art, lie in a small comparative compass. The neutral trade can carry them. Your produce rots in the warehouse. You go to Eustatia or St. Thomas, and get a striped blanket for a joe;^a if you can raise one. Double freight, charges, and commission. Who receives the profit? The carrier. Who pays it? The consumer. All your produce that finds its way to England must bear the same accumulated charges—with this difference, that *there* the burden falls on the home price. I appeal to the experience of the late war, which has been so often cited. What then was the price of produce, and of broad-cloth?

But you are told England will not make war; that she has her hands full. Holland calculated in the same way in 1781. How did it turn out? You stand now in the place of Holland, then without her navy, and unaided by the preponderating fleets of France and Spain, to say nothing of the Baltic powers. Do you want to take up the cudgels where these great maritime states have been forced to drop them? to meet Great Britain on the ocean, and drive her off its face? If you are so far gone as this, every capital measure of your policy has hitherto been wrong. You should have nurtured the old, and devised new, systems of taxation, and have cherished your navy. Begin this business when you may, land-taxes, stamp-acts, window-taxes, hearth-money, excise, in all its modifications of vexation and oppression, must precede or follow after. But, sir, as French is the fashion of the day, I may be asked for my *projet*. I can readily tell gentlemen what I will not do. I will not propitiate any foreign nation with money. I will not launch into a naval war with Great Britain, although I am ready to meet her at the Cowpens or on Bunker's Hill—and for this plain reason we are a great land animal, and our business is on shore. I go further: I would (if anything) have laid an embargo. This would have got our own property home, and our adversary's into our power. If there is any wisdom left among us the first step toward hostility will always be an embargo. In six months all your mercantile megrims would vanish. As to us, although it would cut deep, we can stand it. Without such a precaution, go to war when you will, you go to the wall. As to debts, strike the balance to-morrow, and England is, I believe, in our debt.

I ask your attention to the character of the inhabitants of that Southern country, on whom gentlemen rely for support of their measure. Who and what are they? A simple, agricultural people, accustomed to travel in peace to market with the produce

^a A Portuguese coin.

of their labor. Who takes it from us? Another people, devoted to manufactures—our sole source of supply. I have seen some stuff in the newspapers about manufactures in Saxony. But what became of their Dresden china? Why the Prussian bayonets have broken all the pots, and you are content with Worcestershire or Staffordshire ware. There are some other fine manufactures on the continent, but no supply, except perhaps of linens, the article we can best dispense with. A few individuals, sir, may have a coat of Louvier's cloth, or a service of Sèvres china; but there is too little, and that little too dear, to furnish the nation. You must depend on the fur trade in earnest, and wear buffalo hides and bear skins.

But, sir, it seems that we, who are opposed to this resolution, are men of no nerve, who trembled in the days of the British treaty—cowards (I presume) in the reign of terror? Is this true? Hunt up the journals; and let our actions tell. We pursue our old unshaken course. We care not for the nations of Europe, but make foreign relations bend to our political principles and subserve our country's interest. We have no wish to see another Actium, or Pharsalia, or the lieutenants of a modern Alexander playing at piquet, or all-fours, for the empire of the world. It is poor comfort to us to be told that France has too decided a taste for luxurious things to meddle with us; that Egypt is her object, or the coast of Barbary, and, at the worst, we shall be the last devoured. We are enamored with neither nation; we would play their own game upon them, use them for our interest and convenience. But with all my abhorrence of the British Government I should not hesitate between Westminster Hall and a Middlesex jury, on the one hand, and the wood of Vincennes and a file of grenadiers, on the other. That jury-trial, which walked with Horne Tooke and Hardy through the flames of ministerial persecution, is, I confess, more to my taste than the trial of the Duke d'Enghien.

I offer as apology for these undigested, desultory remarks my never having seen the treasury documents. Until I came into the House this morning I had been stretched on a sick bed. But when I behold the affairs of this nation, instead of being where I hoped, and the people believed, they were, in the hands of responsible men, committed to Tom, Dick, and Harry, to the refuse of the retail trade of politics, I do feel, I cannot help feeling, the most deep and serious concern. If the executive Government would step forward and say, "such is our plan, such is our opinion, and such are our reasons in support of it," I would meet it fairly, would openly oppose, or pledge myself

to support it. But, without compass or polar star, I will not launch into an ocean of unexplored measures, which stand condemned by all the information to which I have access. The Constitution of the United States declares it to be the province and the duty of the President "to give to Congress, from time to time, information of the state of the Union, and recommend to their consideration such measures as he shall judge expedient and necessary." Has he done it? I know, sir, that we may say, and do say, that we are independent (would it were true); as free to give a direction to the executive as to receive it from him. But do what you will, foreign relations, every measure short of war, and even the course of hostilities, depend upon him. He stands at the helm, and must guide the vessel of state. You give him money to buy Florida, and he purchases Louisiana. You may furnish means; the application of those means rests with him. Let not the master and mate go below when the ship is in distress, and throw the responsibility upon the cook and the cabin-boy. I blush with indignation at the misrepresentations which have gone forth in the public prints of our proceedings, public and private. Are the people of the United States the real sovereigns of the country, unworthy of knowing what, there is too much reason to believe, has been communicated to the privileged spies of foreign governments? Let the nation know what they have to depend upon. Be true to them, and (trust me) they will prove true to themselves and to you. The people are honest—now at home at their ploughs, not dreaming of what you are about. But the spirit of inquiry, that has too long slept, will be, must be, awakened. Let them begin to think why things have been done—not to accept them as proper because they have been done—and all will be right.

Upon the passage of the Non-Importation Act, William Pinkney was appointed a special envoy to assist James Monroe, minister to Great Britain, in securing a new treaty. On December 19, 1806, the President caused the Non-Importation Act to be suspended, having arrived at the conclusion that he might thus hasten the negotiations. If this had any effect, however, it was purely psychic, since a treaty was agreed to by the representatives of the two countries on December 31, before news reached England of the suspension of the act.

This convention recognized the American contention that indirect trade should be permitted between a bel-

ligerent and its colonies by a landing made by the carrier in a neutral country, and that provisions should be taken from the contraband list. Monroe and Pinkney were compelled to yield the right of search and impressment, on the understanding, however, that it would be exercised only under extraordinary circumstances.

Owing to this concession the President declined to submit the treaty to the Senate for confirmation, and ordered the American envoys to continue their negotiations.

THE ORDERS IN COUNCIL

In the meantime events had occurred in the war between Great Britain and France which greatly aggravated the American grievances.

Great Britain had issued, on January 7, 1807, an "Order in Council," by which all neutral vessels were prohibited from trading between the ports of France and her allies. Then, when she further declared a blockade of all ports from which her flag was excluded, Napoleon retorted with his "Milan Decrees" of December 7, 1807, and January 11, 1808, which proclaimed that any vessel which was in any way connected with British trade, or which should submit to search by a British commander, became thereby "denationalized" and was a good prize for the vessels of France or of the countries which were her allies.

But even more than the injury to their commerce did the American people resent an outrage against the persons of their citizens and against their flag, which was committed on June 22, 1807, by the British frigate *Leopard* in taking four sailors by force from the American frigate *Chesapeake*.

Prompted by his own sentiments as well as by the voice of the people, the President assembled Congress in October, 1807, in advance of its regular time of assembly, and laid before them the actions of the British which demanded redress.

As he stated in his message, he had, without waiting for Congress, taken instant action for redress.

persons whom they had forcibly taken from on board the *Chesapeake*.

To former violations of maritime rights another is now added of very extensive effect. The government of that nation has issued an order interdicting all trade by neutrals between ports not in amity with them. And being now at war with nearly every nation on the Atlantic and Mediterranean seas, our vessels are required to sacrifice their cargoes at the first port they touch, or to return home without the benefit of going to any other market. Under this new law of the ocean our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas is threatened with the same fate.

On December 18, 1807, the President, having in the meantime learned of the second "Order in Council" of the British Government, sent the following special message to Congress:

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise are threatened on the high seas and elsewhere, from the belligerent powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Agreeably to the recommendation of the President, on December 21, Congress, in a secret session which lasted until midnight, passed an embargo act temporarily prohibiting all commerce between the United States and foreign ports.

For a time after the passage of the act the patriotism of the nation was staunch enough to approve it, in the hope that the loss of the American trade would bring Great Britain and France to terms with this country. Many State legislatures passed approving resolutions, and the suffering shipowners and merchants for a while bore their losses in grim silence. In three or four months, however, opposition to the act began to assert itself both in and out of Congress.

Nor could the opponents be accused of lack of patri-

MESSAGE TO CONGRESS

PRESIDENT JEFFERSON, OCTOBER 27, 1807

Circumstances, fellow-citizens, which seriously threatened the peace of our country, have made it a duty to convene you at an earlier period than usual. The love of peace, so much cherished in the bosoms of our citizens, which has so long guided the proceedings of their public councils, and induced forbearance under so many wrongs, may not insure our continuance in the quiet pursuits of industry. The many injuries and depredations committed on our commerce and navigation upon the high seas for years past, the successive innovations on those principles of public law which have been established by the reason and usage of nations as the rule of their intercourse, and the umpire and security of their rights and peace, and all the circumstances which induced the extraordinary mission to London, are already known to you.

The President here commented upon the several concessions which the embassy had been authorized to grant and the others which the treaty called for, which his own sense of honor and ideas of justice could not allow him to consider. He spoke of the consequent fruitlessness of the mission, and continued:

On the 22d day of June last, by a formal order from a British admiral, the frigate *Chesapeake*, leaving her port for a distant service, was attacked by one of those vessels which had been lying in our harbors under the indulgences of hospitality, was disabled from proceeding, had several of her crew killed, and four taken away. On this outrage no commentaries are necessary. Its character has been pronounced by the indignant voice of our citizens with an emphasis and unanimity never exceeded. I immediately, by proclamation, interdicted our harbors and waters to all British armed vessels. An armed vessel of the United States was dispatched with instructions to our ministers at London to call on that government for the satisfaction and security required by the outrage.

The aggression thus begun has been continued on the part of the British commanders, by remaining within our waters in defiance of the authority of the country, by habitual violations of its jurisdiction, and, at length, by putting to death one of the

otism in view of the fact that no indication had yet appeared that the purpose of the embargo would be accomplished. Indeed, Great Britain professed to be pleased with its effects, chief of which was the surrender of the carrying trade to her own marine and the upbuilding of her American colonies. Napoleon, too, praised it highly, and in characteristic fashion enforced his professions by another proclamation, the "Bayonne Decree" of April 17, 1808, which righteously supported the embargo by ordering the seizure and sale of all American vessels which should enter the ports of France or its allies in violation of the act.

The first strong attack in Congress upon the embargo came from a representative of the President's own State. John Randolph, who had advocated an embargo in substitution for the Non-Importation Act, now permitted his hostility to the Administration to get the better of his consistency and, on April 7, 1808, in opposing a bill to increase the army in view of the prospect of a war with Great Britain, included the embargo among the objects of his reprobation. As for some reason, probably the great number and length as well as incoherence of his speeches, all of his remarks were not reported in the succeeding debate, his attack on the embargo in the army debate is presented in connection with the embargo debate.

On April 8, George W. Campbell, of Tennessee, in the interest of the Administration moved that the President have the right to suspend the act in view of certain contingencies (*i. e.*, the settlement of difficulties with Great Britain and France) which might arise during the coming recess of Congress.

During the debates the speakers who chose the opportunity to denounce the embargo as wrong in principle and ineffective in practice were John Randolph [Va.], Josiah Masters [N. Y.], and Philip B. Key [Md.]; and those who defended it were Richard M. Johnson [Ky.], John Love [Va.], James Fick [Vt.], and Mr. Campbell.

The bill giving the President the desired power was passed on April 19, 1808, by a vote of 54 to 33.

SUSPENSION OF THE EMBARGO

HOUSE OF REPRESENTATIVES, APRIL 8-19 1808

Mr. RANDOLPH.—The non-importation law might be called the edge of the wedge, the embargo the center, and the standing army the butt [of the President's policy for the aggrandizement of his power], and it is all about to be driven to the hilt.

We quarreled about impressed American seamen, and commenced a system which produced consequences the remedy for which is an embargo; and we give up all our seamen, for they are not to be embargoed; they will slip out. Great Britain has now not only all her own seamen, but a great many of ours. I am not surprised to learn that in England the embargo is a most popular measure; that they are glad to see the patriotism with which we bear it, and hope it will not fail us.

The British West Indies, so long verging to ruin, are at last relieved. Year after year they have petitioned Parliament, complaining that they are undersold by the enemies' colonies, whose produce is carried in neutral bottoms (chiefly American) free of war risks and charges. We have done more for them than their own government could do. We have given them the monopoly of the supply of Europe; and to the mother country the monopoly of the carrying trade also.

I therefore am not one of those who approve the embargo; and so far permit me to differ with my friend from South Carolina (Mr. D. R. Williams) in considering the embargo a half-way measure. Not so. It is up to the hilt; commerce and agriculture are lingering and must die under its operation. A half-way measure indeed! It gives up to Great Britain all the seamen and all the commerce; their feet are not now upon your decks, for your vessels are all riding safely moored along your slips and wharves; and this measure absolutely gives agriculture a blow which she cannot recover till the embargo is removed.

Mr. Randolph then entered into a constitutional argument against the measure, making a distinction between a permanent and a temporary embargo, and saying that because it affected exportation the measure was in the same category as export duties, which were prohibited by the Constitution.

Mr. Johnson answered the first of these arguments.

If we have power to lay an embargo for one day, have we not the power to renew it at the end of that day? If for sixty

days, have we not the power to lay it again? Would it not amount to the same thing? If we pass a law to expire within a limited term, we may renew it at the end of that term; and there is no difference between a power to do this and a power to pass laws without specified limit.

Mr. Randolph said he would just remind his friend from Kentucky that he had never conceded the right of Congress to lay even a temporary embargo.

Mr. Johnson resumed:

The gentleman has told us that the embargo is well received in Great Britain. Do we not know the warm discussions which have taken place in the British Parliament? Have we not seen the petitions of the people of England, and from our minister himself do we not know that if we are plunged into a war the whole world will say that the cause of America is just? If we are upon wrong ground let us retract; if not, let us have bare justice, and I for one will be satisfied.

Mr. Love answered the second of Mr. Randolph's constitutional arguments:

But to lay an embargo is unconstitutional, because Congress cannot lay an export duty! And it is argued by the same gentleman that the lesser power being thus provided against the exercise of the greater must of course be included in the prohibition; the minor forming an objection, the major is, *a fortiori*, inadmissible. How easily, sir, is this argument of inference retorted on the gentleman; for, according to a familiar and certainly plain course of reasoning, it would seem that, if the subjects are the same as is said, when the framers of our Constitution made an exception of the lesser power, if they had intended also to except the greater, they would not have forgotten it.

The reasons which influenced the framers of that instrument to provide against the power of laying an export duty were obvious; the provision was adopted in that spirit of mutual accommodation which was so necessary to the harmony of the whole. It would be difficult, it was easily foreseen, to devise an export duty which would not bear harder on some of the States than others; it was better therefore not to resort at all to a mode of taxation which would afford so fruitless a source of contention. The policy, too, of taxing exports was perhaps

radically inadmissible; yet I cannot, for my life, discern how an export duty has been drawn into analogy with an embargo.

That the embargo was a curse, sir, and continues to be a most calamitous one to us all, I have heard no one deny; but until now I have not heard the assertion advanced that our Government, by its conduct, was the author of that cause. Yes, sir, many evils which the injustice of other nations has inflicted on the peace and honor of the United States are acknowledged to be curses of the most irritating and affecting nature; but the gentleman has said more for England and France than either of them have before said for themselves, when he attributes to his own government the misconduct which has produced those evils. It was scarcely to be expected that any state of internal division or any views of whatever description would have produced on this floor an assertion which has thus put a new argument in the hands of our enemies in justification of their aggressions on us; it is more than our enemies have asserted. We have heard indeed from France and England that their decrees and orders, which make the present voluntary retirement from the seas necessary on our part, were the effect of an unjustifiable attack, which each has attributed in the first instance to the other. Each criminalizes the other, and not America, with being the author of the peculiar mode of warfare which has proved so destructive to the rights of neutrals. The very language of their orders and decrees assumes this position, and they are all prefaced with the declaration that their orders are enacted in the spirit of retaliation on each other, and not, sir, for any offence which our Government has been the author of, as the gentleman now tells the American people; for what purpose let the nation judge.

Remove the embargo and we must arm our vessels, and war is at once declared. Compare the evils, both of great extent. I admit, by the embargo, we lose half the value of the products of our country, or the receipt of it is suspended; by war, to admit the effect in this particular, no worse, at least it could be no better; but have we counted the costs of the armies we are to raise, and to pay, of the supplies we are to furnish, of the loss of our blood, and the diminution of our strength, of the reduction of the profits of agriculture itself, by calling men from their domestic occupations, and lessening the number of hands for tillage—have we calculated the thousand other evils which follow in the train of war? To plunge into war, sir, to escape the curse of the embargo, would be truly fulfilling the adage of old—"out of the frying-pan into the fire."

Mr. Masters censured President Jefferson for his refusal to ratify the treaty with Great Britain which had been signed by James Monroe and William Pinkney. He said:

Mr. Chairman, I shall not undertake to say that the rejected treaty is so advantageous as we had a right to expect. But I do not hesitate to declare that, or even Jay's treaty, is preferable to the present state of our affairs. Can we expect that nation, whose navy commands the seas, will sacrifice that navy, or any part of her power, by conceding the point of search for her seamen on board of neutral vessels? It is inconsistent with their interest, and it is inconsistent with their superiority. My wish is to raise the embargo and arm our vessels. The nation cannot bear the pressure. The embargo virtually inhibits all intercourse with foreign nations; the effects are and will be pernicious to the agricultural productions of this country, and produce will fall to the lowest ebb, and enforce the most unparalleled distress on the community. Commerce ought always to be left to the merchant, unshackled and unembarrassed, as much as possible. Our commercial intercourse is the principal resource, both of revenue and commercial opulence. The embargo will tear up by the roots and annihilate the commerce of this country. And the effects will be heavy taxes, an exhausted treasury, a diminished and ruined revenue. It weakens your own power, fetters your operations, and deludes your citizens; it devours not only the fruits but the seeds of industry. It will sink down and depress the nation to an absence of hope and a want of resources; it will be felt by the nation as a calamity, without deciding the general question of dispute. Prove to me the embargo is consistent with common sense, and will be the means of adjusting our differences with the belligerent powers, and I will then be an advocate for it. It may be good in theory, but it is chimerical in practice, a mere speculative proposition. Search all the histories of the world and you will not find eleven hundred thousand tons of shipping, of one of the greatest commercial nations, embargoed for an unlimited time.

If you entertain a sense of the many blessings which you have enjoyed; if you value a continuance of that commerce which is the source of so much opulence; if you wish to preserve that high state of prosperity by which the country has, for some years past, been so eminently blessed, you lose all these advantages by continuing the embargo and neglecting to arm your vessels. Restore, then, confidence and vigor to commerce. You

are at war with your own interest and every idea of policy; instead of protecting commerce you destroy it.

In whatever view the embargo presents itself it appears to me to be fraught with impolicy; it was laid at midnight; that miserable scene was closed under the darkness which suits with it, and under the secret shelter of our own walls. If we are to go to war, you have, instead of warlike preparations and exerting every sinew of national ability, laid an embargo, and obtained just nothing.

The policy of France, as regards Great Britain, is to make a warlike non-intercourse, and we have, by a side-wind, fallen into the measure, adopted and sanctioned it; we have abandoned the great highway of nations: our dispute with Great Britain is about commercial rights; we have given them up.

Is this country at that crisis when we shall surrender all those rights her citizens hold most dear? God forbid! I have contemplated upon the embargo, which is hazardous and impolitic, with great pain and anxiety, and I turn my face from it with horror. If there are any who improperly foster and countenance the threatening storm, and whatever consequences may follow, they are answerable to their country and their God.

All the advocates of the embargo on this floor have admitted that it was oppressive and a curse. Take away this curse and arm your vessels. It does not follow, as the gentleman from Virginia [Mr. Love] supposes, that arming will involve us in a war. When Great Britain finds we resist the French decrees she will revoke her orders of council. When France sees she cannot bring us into her views she will revoke her decrees.

Mr. FISK.—The gentleman last up and the gentleman from Virginia [Mr. Randolph] yesterday have expressed sentiments which, if they once take root in this nation, will prostrate your liberties and rights at the feet of foreign governments. The gentleman who just took his seat has observed that the subject of impressment was the main block in the way of negotiation. Very true, it was, sir; it goes to the personal liberty and security of your citizens; and, if you surrender that right, what do you expect those citizens will say to you? Do you expect they will greet you with, "well done thou good and faithful servant!" What can the gentleman think when he recollects the sensation displayed at New York on the death of Pierce, in consequence of the exercise by Britain of the right of impressment? Were those tears and lamentations feigned, or were they the sincere effusions of citizens feeling the injury done them, and burning with indignation at seeing their fellow-citizens mur-

dered almost before their face? If we could believe what the gentleman now suggests we should suppose that the liberties and lives of our citizens were of no value compared with commerce.

I am a little surprised to hear gentlemen telling us that arming our merchant vessels would not produce war. Why arm, if they are not to defend themselves? If the belligerents defend their proceedings, will they not resist our vessels arming against their orders? Could it be done without being met by a declaration of war? But the gentleman from New York has told us that if we suffer our merchants to arm the British would consider it a sufficient token of our resistance to the French decrees, and remove their orders of council. You have seen all the decrees and orders which make innovations on the law of nations and subject our commerce to plunder. Look at the treaty which our Government is on this floor condemned for not signing, with the note annexed, declaring that, if we submit to the decrees of France, His Britannic Majesty would consider himself bound not to observe the treaty.

What do the British ministers offer us? If we will trade as they please, and pay them a duty on all our exports, we may carry on our commerce. Is it possible that any man who professes himself an American could accede to this? The spirit of 1776, refusing to pay a duty of two per cent. on tea, would certainly not now yield that for which they then contended, and become again tributary to the British Government. And yet gentlemen wish us to raise the embargo, to embrace these regulations, open all our ports to this fettered commerce, and will not place it in the power of the Executive to suspend the embargo. I am a little astonished that gentlemen who consider the embargo as the heaviest curse which could befall this nation should be against any measure for removing its pressure. But so it is. Here permit me to say that I admire the flexibility of the sentiments of the gentleman from Virginia (Mr. Randolph) who, in combating the non-importation law, said that if we take measures at all they should be strong measures; none of your milk-and-water measures, but an *embargo*; which would be an efficient measure.

Mr. KEY.—Mr. Chairman, let us review this law and its effects. In a commercial point of view it has annihilated our trade. In an agricultural point of view it has paralyzed industry. I have heard that the touch of Midas converted everything into gold; but the embargo law, like the head of Medusa, turns everything into stone. Our most fertile lands are re-

duced to sterility, so far as it respects our surplus product. As a measure of political economies it will drive (if continued) our seamen into foreign employ, and our fishermen to foreign sand-banks. In a financial point of view it has dried up our revenue, and if continued will close the sales of Western lands, and the payment of instalments of past sales; for unless produce can be sold payments cannot be made. As a war measure the embargo has not been advocated.

It remains, then, to consider its effects as a peace measure—a measure inducing peace. I grant, sir, that if the friends of the embargo had rightly calculated its effects; if it had brought the belligerents of Europe to a sense of justice and respect for our rights, through the weakness and dependence of their West India possessions, it would have been infinitely wise and desirable, and that they voted for it with such noble views I have no doubt. But, sir, the experience of near four months has not produced that effect; and I have endeavored to show from the situation of our country, the manner in which the law is executed, the demand for subsistence, the consequent rise in price, and the facility of supply, that the West Indies (British) will be supplied.

If that be the case, if such should be the result, then will the embargo of all measures be the most acceptable to Britain; by occluding our ports you give to her ships the exclusive use of the ocean; and you give to her despairing West India planter the monopoly of sugar and rum and coffee to the European world. But, sir, what are we? A peaceable agricultural people, of simple and I trust virtuous habits, of stout hearts and willing minds, and a brave, powerful, but badly disciplined militia, unarmed, and without troops; and whom are we to come in conflict with? The master of continental Europe in the full career of universal domination, and the mistress of the ocean contending for self-preservation; nations who feel power and forget right. What man can be weak enough to suppose that a sense of justice can repress or regulate the conduct of Bonaparte? We need not resort to other nations for examples. Has he not, in a manner as flagrant as flagitations, directly, openly, publicly violated and broken a solemn treaty entered into with us? Did he not stipulate that our property should pass free even to enemy ports, and has he not burnt our ships at sea under the most causeless pretenses? Look to England; see her conduct to us; do we want any further evidence of what she will do in the hour of impending peril than the attack on Copenhagen? That she prostrates all rights that come in collision

with her self-preservation? Strangely infatuated would she be, to make our repealing the embargo to depend on the acts of governments, which will be annulled whenever their interest or their danger prompt them. No, sir; let us pursue the steady line of rigid impartiality; let us hold the scales of impartial neutrality with a high and steady hand, and export our products to, and bring back supplies from, all who will trade with us. Much of the world is yet open to us, and let us profit of the occasion.

At present we exercise no neutral rights; we have quit the ocean; we have abandoned our rights; we have retired to our shell. Sooner than thus continue our merchantmen should arm to protect legitimate trade. Sir, I believe war itself, as we could carry it on, would produce more benefit and less cost than the millions lost by the continuance of the embargo.

Mr. CAMPBELL.—It is true, sir, we have abandoned our commerce with Great Britain, but not to her; we have retired from the ocean, and in retiring have carried with us almost the whole commerce of the European world. The belligerent powers cannot carry on commerce with each other, and there are no neutrals in Europe with which they can trade—what commerce, then, is abandoned by us to Great Britain? There is scarcely a merchant vessel that sails the ocean—she can hardly find a solitary ship to pursue—we had carried on almost the whole of the neutral trade—we were forced to abandon it—we did so—we retired, and left the great Leviathan of the ocean to roam about without a solitary object upon which to prey. Let gentlemen, then, inform us what commerce Great Britain has acquired by this measure; they can point out none; they cannot designate a single branch of trade of any importance which Great Britain has got by our retiring. But let us notice what the first statesmen in that country say on this subject—and they seem to have furnished the full to what was said on this floor, as has frequently been the case, with only this difference, that they stated the whole case, whereas a part only was stated here. They say that, in consequence of their orders of council, you have abandoned your commerce, as you ought to have done; and yet they inquire what is the commerce thus abandoned? They admit they have all that is left, but they inquire what that is; they cannot ascertain it; they say there is none, and in this they are correct. With regard to the effect of the embargo they state what has been before, in substance, stated on this floor, what was always considered, and so stated, would be the effect of this measure. They say the French West India islands will starve; but, supposing this to be the case, they inquire what will become

of their own islands, whose sole dependence for subsistence is on the commerce and productions of America. They say *they* must also starve; they inquire if a famine must be produced in England, in order to supply their islands with provisions, which they could not even then effect. They pursue the picture, which every one must have seen; they describe the distresses that must be produced in Great Britain itself, as well as in the islands; and ascribe the whole of these misfortunes to the orders of council of their own government. This does not go to prove that the embargo was the very measure which Great Britain wanted; nor does it show that she acquired any real or valuable acquisition of commerce by our retiring from the ocean; it contradicts the assertion that the embargo has failed in its object, and proves, in a very decided manner, that it is in full operation, and in a fair way toward effecting the object for which it was laid; and that its pressure is severely felt by both the great belligerent powers.

MR. RANDOLPH.—The embargo power, which now holds in its palsyng gripe all the hopes of this nation, is distinguished by two characteristics of material import, in deciding what control shall be left over it during our recess. I allude to its greatness and its novelty.

As to its greatness, nothing is like it. Every class of men feels it. This power resembles not the mild influences of an intelligent mind, balancing the interests and conditions of men, and so conducting a complicated machine as to make inevitable pressure bear upon its strongest parts. But it is like one of the blind visitations of nature; a tornado or a whirlwind. It sweeps away the weak; it only strips the strong. The humble plant, uprooted, is overwhelmed by the tempest. The oak escapes with the loss of nothing except its annual honors. It is true the sheriff does not enter any man's house to collect a tax from his property. But want knocks at his door and poverty thrusts his face into the window. And what relief can the rich extend? They sit upon their heaps and feel them mouldering into ruins under them. The regulations of society forbid what was once property to be so any longer. For property depends on circulation; on exchange; on ideal value. The power of property is all relative. It depends not merely upon opinion here, but upon opinion in other countries. If it be cut off from its destined market much of it is worth nothing, and all of it is worth infinitely less than when circulation is unobstructed.

But the magnitude of the embargo power is not more remarkable than its novelty. An experiment such as is now making,

der became a safe and profitable and extensive trade. Indeed, some of the State courts decided that the embargo was unconstitutional, since it went beyond the regulation of commerce to its annihilation. The State legislatures, too, following the precedent of the Ken-



THE AMERICAN SNAPPING-TURTLE
[Cartoon on the Embargo.]

From the collection of the New York Historical Society

tucky and Virginia resolutions, which they had formerly denounced, expressed their condemnation of the embargo, intimating that it was a sectional measure, passed by the agricultural Middle and Southern States at the expense of commercial New England.

At the next session of Congress memorials against the embargo poured in upon that body from various interests injured by the act. It appeared that every industry but domestic manufacture was suffering.

The President in his message reported that the embargo had not yet been effective in securing the revocation of the obnoxious decrees of Great Britain and France, but that it had been the means of "saving our mariners, and our vast mercantile property, as well as

was never before—I will not say tried—it never before entered into the human imagination. There is nothing like it in the narrations of history or in the tales of fiction. All the habits of a mighty nation are at once counteracted. All their property depreciated. All their external connections violated. Five millions of people are engaged. They cannot go beyond the limits of that once free country; now they are not even permitted to thrust their own property through the grates. I am not now questioning its policy, its wisdom, or its practicability, I am merely stating the fact. And I ask if such a power as this, *thus* great, *thus* novel, *thus* interfering with all the great passions and interests of a whole people, ought to be left for six months in operation without any power of control, except upon the occurrence of certain specified and arbitrary contingencies? Who can foretell when the spirit of endurance will cease? Who, when the strength of nature shall outgrow the strength of your bonds? Or, if they do, who can give a pledge that the patience of the people will not first be exhausted? I make a supposition, Mr. Chairman—you are a great physician; you take a hearty, hale man, in the very pride of health, his young blood all active in his veins, and you outstretch him on a bed; you stop up all his natural orifices, you hermetically seal down his pores, so that nothing shall escape outward, and that all his functions and all his humors shall be turned inward upon his system. While your patient is laboring in the very crisis of this course of treatment you, his physician, take a journey into a far country, and you say to his attendant, "I have a great experiment here in process, and a new one. It is all for the good of the young man, so do not fail to adhere to it. No attention is to be paid to any internal symptom which may occur. If the patient be convulsed you are to remove none of my bandages. But in case something external should happen, if the sky should fall, and larks should begin to appear, if three birds of Paradise should fly into the window, the great purpose of all these sufferings is answered. Then, and then only, have you my authority to administer relief."

OPPOSITION TO THE EMBARGO

During the following recess of Congress the feeling against the embargo became extreme in certain parts of the country, particularly New England.

The Federal courts there began to find it difficult to secure convictions from juries of even flagrant violations of the act, and smuggling over the Canadian bor-

of affording time for prosecuting the defensive and provisional measures called for by the occasion." He added:

It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involved war, if submitted to, sacrificed a vital principle of our national independence.

He therefore left the matter with Congress to decide.

On November 21, 1808, James Hillhouse [Conn.] offered a resolution in the Senate to repeal the embargo. The arguments were much the same as those presented in the House in the preceding debate, and therefore need not be repeated. There were, however, brought forward in the course of the debate opposing views of the effectiveness of an appeal to the patriotism of the country when this is at the sacrifice of its financial interests, which has a psychological import not limited to the special crisis, and therefore is deserving of presentation. Senator Hillhouse and Senator William B. Giles [Va.] were the antagonists.

PUBLIC HONOR VS. PRIVATE INTEREST

THE SENATE, NOVEMBER 21-24, 1808

SEN. HILLHOUSE.—This embargo, instead of operating on those nations which had been violating our rights, was fraught with evils and privations to the people of the United States. They were the sufferers. And have we adopted the monkish plan of scourging ourselves for the sins of others? He hoped not; and that, having made the experiment and found that it had not produced its expected effect, they would abandon it, as a measure wholly inefficient as to the objects intended by it, and as having weakened the great hold which we had on Great Britain, from her supposed dependence on us for raw materials.

Some gentlemen appeared to build up expectations of the efficiency of this system by an addition to it of a non-intercourse law. Mr. H. treated this as a futile idea. He said he was young when the old non-intercourse took place, but he remembered it

well, and had then his ideas on the subject. The British army was then at their door, burning their towns and ravaging the country, and at least as much patriotism existed then as now; but British fabrics were received and consumed to almost as great an extent as before the prohibition. When the country was in want of clothing, and could get it for one-fourth price from the British, what was the consequence? Why, all the zealous patriots—for this work of tarring and feathering, and meeting in mobs to destroy their neighbor's property, because he could not think quite as fast as they did, which seemed to be coming in fashion now, had been carried on then with great zeal—these patriots, although all intercourse was penal, carried on commerce notwithstanding. Now, Mr. H. wanted to know how a non-intercourse law was to be executed by us with a coast of fifteen hundred miles open to Great Britain by sea, and joining her by land? Her goods would come through our courts of admiralty by the means of friendly captors; they would be brought in, condemned, and then naturalized, as Irishmen are now naturalized, before they have been a month in the country.

SEN. GILES.—Sir, I have always understood that there were two objects contemplated by the embargo laws. The first, precautionary, operating upon ourselves. The second, coercive, operating upon the aggressing belligerents. Precautionary, in saving our seamen, our ships, and our merchandise, from the plunder of our enemies, and avoiding the calamities of war. Coercive, by addressing strong appeals to the interests of both the belligerents. The first object has been answered beyond my most sanguine expectations.

The President of the United States, ever watchful and anxious for the preservation of the persons and property of all our fellow-citizens, but particularly of the merchants, whose property is most exposed to danger, and of the seamen whose persons are also most exposed, recommended the embargo for the protection of both; and it has saved and protected both.

But, sir, these are not the only good effects of the embargo. It has preserved our peace—it has saved our honor—it has saved our national independence. Are these savings not worth notice? Are these blessings not worth preserving?

Mr. President, the eyes of the world are now turned upon us; if we submit to these indignities and aggressions, Great Britain herself would despise us; she would consider us an outcast among nations; she would not own us for her offspring; France would despise us; all the world would despise us; and, what is infinitely worse, we should be compelled to despise our-

selves! If we resist we shall command the respect of our enemies, the sympathies of the world, and the noble approbation of our own consciences.

Mr. President, our fate is in our own hands; let us have union and we have nothing to fear. So highly do I prize union, at this awful moment, that I would prefer any one measure of resistance with union to any other measure of resistance with division; let us, then, sir, banish all personal feelings; let us present to our enemies the formidable front of an indissoluble band of brothers; nothing else is necessary to our success. Mr. President, unequal as this contest may seem; favored as we are by our situation, and under the blessing of a beneficent Providence, who has never lost sight of the United States in times of difficulty and trial, I have the most perfect confidence that if we prove true to ourselves we shall triumph over our enemies. Deeply impressed with these considerations, I am prepared to give the resolution a flat and decided negative.

The views of statesmen such as Giles were still predominant, and on January 9, 1809, a drastic enforcing act supplementary to the embargo was passed. This act was published by many newspapers in New England inclosed in black borders and headed by such mottoes as "Liberty Is Dead!"

John Quincy Adams, who had resigned from the Senate because he could not conscientiously represent his State on the question of the embargo, informed the Government in February, 1809, that execution of the enforcing act in New England might result in the secession of its five States from the Union,—indeed, that unofficial negotiations were already in progress for British assistance to that end.

An opportunity was afforded the President to "back water" on the subject by intimations received from the British Government that its objectionable Orders in Council would be withdrawn if the United States met it half way. Accordingly the administration secured the passage by Congress of a "Non-Intercourse Bill," which repealed the embargo after May 20, 1809, and gave the President power to open trade with either Great Britain or France upon the repeal of its oppressive decrees in so far as these related to the United States. The bill

was passed by the Senate on February 21, and by the House on February 27, and approved by the President on March 1, 1809.

This Non-Intercourse Bill was to continue to the end of the next session of Congress. Owing to circumstances hereinafter related it was renewed, and continued until abolished by the Treaty of Ghent in 1814.

The last speaker on the subject in the House (James Sloan, of New Jersey) expressed the prevalent opinion both of the embargo and the device by which it had been repealed, as follows:

Gentlemen could not detest the bill more than he did; and yet he should vote for it for this reason, that the people, as well as himself, were so heartily tired of the embargo that they would be glad to get anything else in place of it. Another reason was that it contained a limitation to the embargo laws, and he hoped that the embargo would expire at the time limited, never again to be reinitiated; that it would be dead, dead, dead.

CHAPTER VI

RESISTANCE OR SUBMISSION TO GREAT BRITAIN?

The British Minister, D. M. Erskine, Withdraws the "Orders in Council"—His Government Repudiates the Action—Election of a Militant Congress—Message of President James Madison—Report of the Committee on Foreign Relations—Debate: in Favor of War Measures, Richard M. Johnson [Ky.], Robert Wright [Md.], John C. Calhoun [S. C.]; Opposed, John Randolph [Va.]—The President Recommends an Embargo as Preliminary to War—Debate as to Its Good Faith: in Favor, Henry Clay [Ky.]; Opposed, Mr. Randolph, Josiah Quincy, 3rd [Mass.].

THE administration of James Madison began under most favorable auspices in respect to foreign relations. On April 19, 1809, the British minister at Washington, D. M. Erskine, withdrew the "Orders in Council," and on the same day President Madison proclaimed the full renewal of trade with that country after June 10, 1809.

The satisfaction over this agreement was, however, short-lived, since the British Government repudiated the action of its minister as unauthorized and recalled him in disgrace. Accordingly, on August 9, 1809, President Madison by proclamation reestablished the rescinded part of the Non-Intercourse Law which related to Great Britain. F. J. Jackson, the successor of Erskine, charged that the agreement with his predecessor had been obtained by trickery, and the Secretary of State, Robert Smith, refused to hold communications with him.

The Non-Intercourse Act was equally ineffective in bringing France to terms.

In January, 1810, Napoleon informed John Armstrong, our minister to France, that the repeal of his various "Decrees" was dependent on the withdrawal by Great Britain of her blockade of the European continent, and on March 23, 1810, he issued his "Rambou-

illegitimate Decree," by which 132 American vessels, of a value of \$8,000,000, which had entered the ports of France and her allies, were condemned and sold.

On May 1, 1810, Congress replaced the Non-Inter-course Act, which was shortly to expire, with one which removed all restrictions from commerce but excluded 248 British and French ships of war from the harbors of the United States until either country should withdraw its restrictions on American commerce. This bill contained a proviso that if either belligerent withdrew its decrees before March 3, 1811, and the other should fail to do so within three months thereafter, the President would restore the Non-Inter-course Act against the delinquent alone.

Napoleon seized the opportunity thus afforded him to involve the United States in war with Great Britain. On August 5, 1810, he informed Minister Armstrong that he had revoked his obnoxious decrees, on the understanding that Great Britain would revoke her Orders in Council or, on her failure to do so, the United States would assert her rights in the matter.

On November 2 the President accepted this arrangement. The British Government refused to revoke its orders, denying that Napoleon had made a *bona fide* revocation because he retained the money for which the vessels seized under the Rambouillet Decree had been sold, and because the French prize courts refused to consider any of the former decrees revoked.

Notwithstanding this protest, the Non-Inter-course Act went into effect against Great Britain alone on March 2, 1811.

In the elections to the succeeding Congress, the people of the country, weary of temporizing measures, had replaced many of the old "peace-at-any-price" statesmen with younger men of a more violent temper. Among these may be mentioned Henry Clay [Ky.], who entered the House of Representatives by the unusual door of the Senate, and John C. Calhoun [S. C.]. Clay, owing to the prestige he had gained in the Upper House, was elected Speaker by the new element.

The President convened Congress at an early date.

It is more than five years since England and France, in violation of those principles of justice and public law held sacred by all civilized nations, commenced this unprecedented system by seizing the property of the citizens of the United States, peaceably pursuing their lawful commerce on the high seas. To shield themselves from the odium which such outrage must incur, each of the belligerents sought a pretext in the conduct of the other—each attempting to justify his system of rapine as a retaliation for similar acts on the part of his enemy. As if the law of nations, founded on the eternal rules of justice, could sanction a principle which, if ingrafted into our municipal code, would excuse the crime of one robber upon the sole plea that the unfortunate object of his rapacity was also a victim to the injustice of another. The fact of priority could be true as to one only of the parties, and, whether true or false, could furnish no ground of justification.

The United States, thus unexpectedly and violently assailed by the two greatest powers in Europe, withdrew their citizens and property from the ocean: and, cherishing the blessing of peace, although the occasion would have fully justified war, sought redress in an appeal to the justice and magnanimity of the belligerents. When this appeal had failed of the success which was due to its moderation, other measures, founded on the same specific policy, but applying to the interests instead of the justice of the belligerents, were resorted to. Such was the character of the non-intercourse and non-importation laws, which invited the return of both powers to their former state of amicable relations, by offering commercial advantages to the one who should first revoke his hostile edicts, and imposing restrictions on the other.

A year has elapsed since the French decrees were rescinded, and yet Great Britain, instead of retracing *pari passu* that course of unjustifiable attack on neutral rights in which she professed to be only the reluctant follower of France, has advanced with bolder and continually increasing strides. To the categorical demands lately made by our Government for the repeal of her Orders in Council, she has affected to deny the practical extinction of the French decrees, and she has, moreover, advanced a new and unexpected demand, increasing in hostility the orders themselves. She has insisted, through her accredited minister at this place, that the repeal of the Orders in Council must be preceded, not only by the practical abandonment of the decrees of Berlin and Milan, so far as they infringe the neutral rights of the United States; but by the renunciation

In his message he reviewed the events which had taken place in the recess of the national legislature, and recommended that action be taken to maintain the nation's rights.

MESSAGE TO CONGRESS

PRESIDENT MADISON, NOVEMBER 5, 1811

The period is arrived which claims from the legislative guardians of the national rights a system of more ample provisions for maintaining them. Notwithstanding the scrupulous justice, the protracted moderation, and the multiplied efforts on the part of the United States to substitute for the accumulating dangers to the peace of the two countries all the mutual advantages of reestablished friendship and confidence, we have seen that the British Cabinet perseveres, not only in withholding a remedy for other wrongs, so long and so loudly calling for it, but in the execution, brought home to the threshold of our territory, of measures which, under existing circumstances, have the character, as well as the effect, of war on our lawful commerce.

With this evidence of hostile inflexibility, in trampling on rights which no independent nation can relinquish, Congress will feel the duty of putting the United States into an armor and an attitude demanded by the crisis, and corresponding with the national spirit and expectations.

On November 29 Peter B. Porter, chairman of the Committee on Foreign Relations, made the following report:

ARMED RESISTANCE AGAINST GREAT BRITAIN

REPORT OF COMMITTEE ON FOREIGN RELATIONS, HOUSE OF REPRESENTATIVES, NOVEMBER 29, 1811

Without recurring to the multiplied wrongs of which we have so just cause of complaint against the two great belligerents, your committee will only call your attention, at this time, to the systematic aggression of those powers, authorized by their edicts against neutral commerce—a system which, as regarded its principles, was founded on pretensions that went to the subversion of our national independence; and which, although now abandoned by one power, is, in its broad and destructive operation, as still enforced by the other, sapping the foundation of our prosperity.

on the part of France of the whole of her system of commercial warfare against Great Britain, of which those decrees originally formed a part.

This system is understood to consist in a course of measures adopted by France and the other powers on the Continent subject to, or in alliance with, her, calculated to prevent the introduction into their territories of the produce and manufactures of Great Britain and her colonies; and to annihilate her trade with them. However hostile these regulations may be on the part of France toward Great Britain, or however sensible the latter may feel their effects, they are, nevertheless, to be regarded only as the expedients of one enemy against another, for which the United States, as a neutral power, can, in no respect, be responsible; they are, too, in exact conformity with those which Great Britain has herself adopted and acted upon in time of peace as well as war. And it is not to be presumed that France would yield to the unauthorized demand of America what she seems to have considered as one of the most powerful engines of the present war.

Such are the pretensions upon which Great Britain founds the violation of the maritime rights of the United States—pretensions not theoretical merely, but followed up by a desolating war upon our unprotected commerce. The ships of the United States, laden with the products of our own soil and labor, navigated by our own citizens, and peaceably pursuing a lawful trade, are seized on our own coasts, at the very mouths of our harbors, condemned, and confiscated.

Your committee are not, however, of that sect whose worship is at the shrine of a calculating avarice. And, while we are laying before you the just complaints of our merchants against the plunder of their ships and cargoes, we cannot refrain from presenting to the justice and humanity of our country the unhappy case of our impressed seamen. Although the groans of these victims of barbarity for the loss of (what should be dearer to Americans than life) their liberty; although the cries of their wives and children, in the privation of protectors and parents, have, of late, been drowned in the louder clamors at the loss of property; yet is the practice of forcing our mariners into the British navy, in violation of the rights of our flag, carried on with unabated rigor and severity. If it be our duty to encourage the fair and legitimate commerce of this country by protecting the property of the merchant; then, indeed, by as much as life and liberty are more estimable than ships and goods, so much more impressive is the duty to shield the persons of our

seamen, whose hard and honest services are employed equally with those of the merchants in advancing, under the mantle of its laws, the interests of their country.

To sum up, in a word, the great causes of complaint against Great Britain, your committee need only say that the United States, as a sovereign and independent power, claim the right to use the ocean, which is the common and acknowledged highway of nations, for the purposes of transporting, in their own vessels, the products of their own soil and the acquisitions of their own industry, to a market in the ports of friendly nations, and to bring home, in return, such articles as their necessities or convenience may require—always regarding the rights of belligerents as defined by the established laws of nations. Great Britain, in defiance of this incontestable right, captures every American vessel bound to, or returning from, a port where her commerce is not favored; enslaves our seamen, and, in spite of our remonstrances, perseveres in these aggressions.

To wrongs so daring in character, and so disgraceful in their execution, it is impossible that the people of the United States should remain indifferent. We must now tamely and quietly submit, or we must resist by those means which God has placed within our reach.

Your committee would not cast a shade over the American name by the expression of a doubt which branch of this alternative will be embraced. The occasion is now presented when the national character, misunderstood and traduced for a time by foreign and domestic enemies, should be vindicated. If we have not rushed to the field of battle like the nations who are led by the mad ambition of a single chief, or the avarice of a corrupted court, it has not proceeded from a fear of war, but from our love of justice and humanity. That proud spirit of liberty and independence which sustained our fathers in the successful assertion of their rights against foreign aggression is not yet sunk. The patriotic fire of the Revolution still burns in the American breast with a holy and unextinguishable flame, and will conduct this nation to those high destinies which are not less the reward of dignified moderation than of exalted valor.

But we have borne with injury until forbearance has ceased to be a virtue. The sovereignty and independence of these States, purchased and sanctified by the blood of our fathers, from whom we received them, not for ourselves only, but as the inheritance of our posterity, are deliberately and systematically violated. And the period has arrived when, in the opinion of your committee, it is the sacred duty of Congress to call forth

the patriotism and resources of the country. By the aid of these, and with the blessing of God, we confidently trust we shall be enabled to procure that redress which has been sought for by justice, by remonstrance, and forbearance, in vain.

Your committee, reserving for a future report those ulterior measures which, in their opinion, ought to be pursued, would, at this time, earnestly recommend, in the words of the President, "that the United States be put into an armor and attitude demanded by the crisis, and corresponding with the national spirit and expectations."

The committee recommended an increase of the army, a refitting of the navy, and resort to privateering.

These recommendations were adopted after long and heated debates, of which the first, that on the increase of the army, contained the leading arguments, *pro* and *con*.

In this debate the following were the chief speakers in the affirmative: Richard M. Johnson [Ky.], Robert Wright [Md.], and John C. Calhoun [S. C.]. John Randolph [Va.], the free lance, was a member of the committee and the only one who dissented from the resolution, being vehement in opposition to the measure when it was brought before the House. By a vote of 110 to 22 the House resolved to increase the army.

ON PREPARATIONS FOR WAR

HOUSE OF REPRESENTATIVES, DECEMBER 6-16, 1811

JOHN RANDOLPH.—In the days of terror we shrunk at standing armies; and what is the object now—defence? Who? Freemen who would not defend themselves. Are seven millions of Americans to be protected in their lives and liberties by ten thousand vagabonds who are fit food for gunpowder? It will be necessary to know the ulterior views of the committee on this point. It will be proper, before a vote is taken on this resolution, to know for what purpose these additional troops are wanted. The House ought not to commit itself on a question of such magnitude without detailed information. I am as much opposed to raising standing armies now as in the reign of terror. I have seen too much of the corruptions attendant on those establishments not to disclaim all share in the creation of them.

The people of the United States can defend themselves, if necessary, and have no idea of resting their defense on mercenaries, picked up from brothels and tippling houses—pickpockets who have escaped from Newgate, etc., and sought refuge in this asylum of oppressed humanity. This resolution contains an unconstitutional proposition, and the standing army now in the service of the United States is maintained in the very teeth of that part of the Constitution which declares that no money for the support of a standing army should be appropriated for more than two years. I ask again what is the object of the army now proposed to be raised? If the President says they are necessary for the protection of New Orleans, to be employed against the Indians, or to repel incursions from Canada (although this seems not to be much thought of), I shall not refuse to grant them. I know not how gentlemen calling themselves republicans can advocate such a war. What was their doctrine in 1798-'9, when the command of the army—that highest of all possible trusts in any government, be the form what it may—was reposed in the bosom of the Father of his Country, the sanctuary of a nation's love, the only hope that never came in vain! When other worthies of the Revolution—Hamilton, Pinckney, and the younger Washington—men of tried patriotism, of approved conduct and valor, of untarnished honor, held subordinate command under him? Republicans were then unwilling to trust a standing army even to his hands who had given proof that he was above all human temptation. Where now is the Revolutionary hero to whom you are about to confide this sacred trust? To whom will you confide the charge of leading the flower of our youth to the Heights of Abraham? Will you find him in the person of an acquitted felon? What; then you were unwilling to vote an army where such men as had been named held high command! When Washington himself was at the head—did you then show such reluctance, feel such scruples; and are you now nothing loth, fearless of every consequence? Will you say that your provocations were less then than now? When your direct commerce was interdicted—your ambassadors treated with derision from the French Court—tribute demanded—actual war waged upon you!

Those who opposed the army then were indeed denounced as the partisans of France; as the same men—some of them at least—are now held up as the advocates of England; those firm and undeviating Republicans who then dared, and now dare, to cling to the ark of the Constitution, to defend it even at the

General James Wilkinson, tried with Aaron Burr for treason.

expense of their fame, rather than surrender themselves to the wild projects of mad ambition! There is a fatality attending plenitude of power. Soon or late some mania seizes upon its possessors—they fall from the dizzy height through the giddiness of their own heads. Will not the same causes produce the same effects now as then? Sir, you may raise this army, you may build up this vast structure of patronage, this mighty apparatus of favoritism; but—"lay not the flattering unction to your souls"—you will never live to enjoy the succession. You sign your political death warrant.

An insinuation has fallen from the gentleman from Tennessee (Mr. Grundy) that the late massacre of our brethren on the Wabash has been instigated by the British Government. Has the President given any such information? Has the gentleman received any such, even informally, from any officer of this Government? Is it so believed by the Administration? I have cause to think the contrary to be the fact; that such is not their opinion. This insinuation is of the grossest kind—a presumption the most rash, the most unjustifiable. Show but good ground for it, I will give up the question at the threshold—I am ready to march to Canada. It is indeed well calculated to excite the feelings of the Western people particularly, who are not quite so tenderly attached to our red brethren as some modern philosophers; but it is destitute of any foundation, beyond mere surmise and suspicion.

This war of conquest, a war for the acquisition of territory and subjects, is to be a new commentary on the doctrine that republics are destitute of ambition—that they are addicted to peace, wedded to the happiness and safety of the great body of their people. But it seems this is to be a holiday campaign—there is to be no expense of blood, or treasure, on our part—Canada is to conquer herself—she is to be subdued by the principles of fraternity. The people of that country are first to be seduced from their allegiance, and converted into traitors, as preparatory to the making them good citizens. Although I must acknowledge that some of our flaming patriots were thus manufactured, I do not think the process would hold good with a whole community. It is a dangerous experiment. We are to succeed in the French mode by the system of fraternization—all is French; but how dreadfully it might be retorted on the Southern and Western slaveholding States. I detest this subornation of treason. No—if he must have them, let them fall by the valor of our arms, by fair, legitimate conquest; not become the victims of treacherous seduction.

I am not surprised at the war spirit which is manifesting itself in gentlemen from the South. In the year 1805-'6, in a struggle for the carrying trade of belligerent colonial produce, this country had been most unwisely brought into collision with the great powers of Europe. By a series of most impolitic and ruinous measures,¹ utterly incomprehensible to every rational, sober-minded man, the Southern planters, by their own votes, had succeeded in knocking down the price of cotton to seven cents, and of tobacco (a few choice crops excepted) to nothing—and in raising the price of blankets (of which a few would not be amiss in a Canadian campaign), coarse woolsens, and every article of first necessity, three or four hundred per cent. And now that, by our own acts, we have brought ourselves into this unprecedented condition, we must get out of it in any way but by an acknowledgment of our own want of wisdom and forecast. But is war the true remedy? Who will profit by it? Speculators—a few lucky merchants, who draw prizes in the lottery—commissaries and contractors. Who must suffer by it? The people. It is their blood, their taxes, that must flow to support it.

I am gratified to find gentlemen acknowledging the demoralizing and destructive consequences of the non-importation law—confessing the truth of all that its opponents foretold when it was enacted. And will you plunge yourselves in war because you have passed a foolish and ruinous law, and are ashamed to repeal it? "But our good friend the French Emperor stands in the way of its repeal," and as we cannot go too far in making sacrifices to him, who has given such demonstration of his love for the Americans, we must, in point of fact, become parties to his war. "Who can be so cruel as to refuse him this favor?" My imagination shrinks from the miseries of such a connection. I call upon the House to reflect whether they are not about to abandon all reclamation for the unparalleled outrages, "insults and injuries" of the French Government, to give up our claim for plundered millions; and I ask what reparation or atonement they can expect to obtain in hours of future dalliance, after they have made a tender of their person to this great deflowerer of the virginity of republics. We have by our own wise (he would not say *wise-acre*) measures, so increased the trade and wealth of Montreal and Quebec that at last we begin to cast a wishful eye at Canada. Having done so much toward its improvement by the exercise of "our restrictive energies," we begin to think the laborer worthy of his hire, and to put in claim

¹ Non-importation, non-intercourse, embargo.

for our portion. Suppose it ours, are we any nearer to our point? As his minister said to the King of Epirus, "may we not as well take our bottle of wine before as after this exploit?" Go! march to Canada! leave the broad bosom of the Chesapeake and her hundred tributary rivers—the whole line of seacoast from Machias to St. Mary's—unprotected! You have taken Quebec—have you conquered England? Will you seek for the deep foundations of her power in the frozen deserts of Labrador?

"Her march is on the mountain wave,
Her home is on the deep!"

Will you call upon her to leave your ports and harbors untouched, only just till you can return from Canada to defend them? The coast is to be left defenceless, while men of the interior are reveling in conquest and spoil. But grant for a moment, for mere argument's sake, that in Canada you touched the sinews of her strength, instead of removing a clog upon her resources—an encumbrance, but one which, from a spirit of honor, she will vigorously defend. In what situation would you then place some of the best men of the nation? As Chatham and Burke, and the whole band of her patriots, prayed for her defeat in 1776, so must some of the truest friends to their country deprecate the success of our arms against the only power that holds in check the arch-enemy of mankind.

Our people will not submit to be taxed for this war of conquest and dominion. The Government of the United States is not calculated to wage offensive foreign war—it was instituted for the common defence and general welfare; and whosoever should embark in a war of offence would put it to a test which it was by no means calculated to endure. I am unwilling to embark in common cause with France and be dragged at the wheels of the car of some Burr or Bonaparte.

What is the situation of the slaveholding States? During the war of the Revolution, so fixed were the habits of subordination of the blacks that when the whole Southern country was overrun by the enemy, who invited them to desert, no fear was ever entertained of an insurrection of the slaves. During the war of seven years, with our country in possession of the enemy, no such danger was ever apprehended. But should we therefore be unobservant spectators of the progress of society within the last twenty years—of the silent and powerful change wrought by time and chance upon its composition and temper? When the fountains of the great deep of abomination were broken up even the poor slaves had not escaped the general

deluge. The French Revolution had polluted even them. Nay, there had not been wanting men in that House, witness their legislative *Legendre*, the butcher who once held a seat there, to preach upon that floor these imprescriptible rights to a crowded audience of blacks in the galleries—teaching them that they are equal to their masters; in other words, advising them to cut their throats. Similar doctrines were disseminated by peddlers from New England and elsewhere, throughout the Southern country—and masters have been found so infatuated as by their lives and conversation, by a general contempt of order, morality, and religion, unthinkingly to cherish these seeds of self-destruction to them and their families. What was the consequence? Within the last ten years repeated alarms of insurrection among the slaves—some of them awful indeed. From the spreading of this infernal doctrine the whole Southern country has been thrown into a state of insecurity. Men dead to the operation of moral causes have taken away from the poor slave his habits of loyalty and obedience to his master, which lightened his servitude by a double operation; beguiling his own cares and disarming his master's suspicions and severity; and now, like true empirics in politics, you are called upon to trust to the mere physical strength of the fetter which holds him in bondage. You have deprived him of all moral restraint, you have tempted him to eat of the fruit of the tree of knowledge, just enough to perfect him in wickedness; you have opened his eyes to his nakedness; you have armed his nature against the hand that has fed, that has clothed him, that has cherished him in sickness; that hand which, before he became a pupil of your school, he had been accustomed to press with respectful affection. You have done all this—and then show him the gibbet and the wheel, as incentives to a sullen, repugnant obedience. God forbid, sir, that the Southern States should ever see an enemy on their shores, with these infernal principles of French fraternity in the van! While talking of taking Canada, some of us are shuddering for our own safety at home. The night-bell never tolls for fire in Richmond that the mother does not hug her infant more closely to her bosom. I have been a witness of some of the alarms in the capital of Virginia.

Strange! that we should have no objection to any people or government, civilized or savage, in the whole world other than the British. The great Autocrat of all the Russias receives the homage of our high consideration. The Dey of Algiers and his Divan of Pirates are very civil, good sort of people, with whom we find no difficulty in maintaining the relations of peace and

amity—"Turks, Jews, and Infidels"; Mellimelli, or the Little Turtle; barbarians and savages of every clime and color are welcome to our arms. With chiefs of banditti, negro or mulatto, we can treat and can trade. Name, however, but England, and all our antipathies are up in arms against her. Against whom? Against those whose blood runs in our veins; in common with whom we claim Shakespeare, and Newton, and Chatham for our countrymen; whose form of government is the freest on earth, our own only excepted; from whom every valuable principle of our own institutions has been borrowed—representation, jury trial, voting the supplies, writ of habeas corpus—our whole civil and criminal jurisprudence—against our fellow Protestants, identified in blood, in language, in religion with ourselves. In what school did the worthies of our land, the Washingtons, Henrys, Hancocks, Franklins, Rutledges of America, learn those principles of civil liberty which were so nobly asserted by their wisdom and valor? And American resistance to British usurpation has not been more warmly cherished by these great men and their compatriots; not more by Washington, Hancock, and Henry, than by Chatham and his illustrious associates in the British Parliament. It ought to be remembered, too, that the heart of the English people was with us. It was a selfish and corrupt ministry, and their servile tools, to whom we were not more opposed than they were. I trust that none such may ever exist among us—for tools will never be wanting to subserve the purposes, however ruinous or wicked, of kings and ministers of state.

I acknowledge the influence of a Shakespeare and Milton upon my imagination, of a Locke upon my understanding, of a Sidney upon my political principles, of a Chatham upon qualities which, would to God! I possessed in common with that illustrious man—of a Tillotson, a Sherlock, and a Porteus, upon my religion. This is a British influence which I could never shake off. I allow much to the just and honest prejudices growing out of the Revolution. But by whom have they been suppressed when they ran counter to the interests of his country? By Washington. By whom, would you listen to them, are they most keenly felt? By felons escaped from the jails of Paris, Newgate, and Kilmahinham, since the breaking out of the French Revolution—who, in this abused and insulted country, have set up for political teachers, and whose disciples give no other proof of their progress in republicanism except a blind devotion to the most ruthless military despotism that the world ever saw. These are the patriots who scruple not to brand with

the epithet of 'Tory men' (looking toward the seat of Col. Stuart) by whose blood your liberties have been cemented. These are they who hold in so keen remembrance the outrages of the British armies, from which many of them were deserters. Ask these self-styled patriots where they were during the American war (for they are for the most part old enough to have borne arms), and you strike them dumb—their lips are closed in eternal silence. If it were allowable to entertain partialities, every consideration of blood, language, religion, and interest would incline us toward England; and, yet, shall they be alone extended to France and her ruler, whom we are bound to believe a chastening God suffers as the scourge of a guilty world! On all other nations he tramples—he holds them in contempt—England alone he hates; he would, but he cannot, despise her—fear cannot despise. And shall we disparage our ancestors?—shall we bastardize ourselves by placing them even below the brigades of St. Domingo? with whom Mr. Adams had negotiated a sort of treaty, for which he ought to have been and would have been impeached if the people had not previously passed sentence of disqualification for their service upon him. This antipathy to all that is English must be French.

The outrages and injuries of England, bred up in the principles of the Revolution, I myself never palliate, much less defend. I well remember flying with my mother and her newborn child from Arnold and Phillips—and how they had been driven by Tarleton and other British pandours from pillar to post, while her husband was fighting the battles of his country. The impression is indelible on my memory—and yet (like my worthy old neighbor, who added seven buckshot to every cartridge at the battle of Guilford, and drew a fine sight at his man) I must be content to be called a Tory by a patriot of the last importation. Let us not get rid of one evil (supposing it to be possible) at the expense of a greater—*mutatis mutandis*! Suppose France in possession of the British naval power—and to her the trident must pass should England be unable to wield it—what would be your condition? What would be the situation of your seaports and their seafaring inhabitants? Ask Hamburg, Lubec. Ask Savannah. What, sir! when their privateers are pent up in our harbors by the British bulldogs, when they receive at our hands every rite of hospitality, from which their enemy is excluded, when they capture within our own waters, interdicted to British armed ships, American vessels; when such is their deportment toward you, under such circum-

¹"The necessary changes having been made."

pendence and acknowledge ourselves her devoted colonies. The people whom I represent will not hesitate which of the two courses to choose; and, if we are involved in war to maintain our dearest rights and to preserve our independence, I pledge myself to this House and my constituents to this nation, that they will not be wanting in valor nor in their proportion of men and money to prosecute the war with effect. Before we relinquish the conflict I wish to see Great Britain renounce the piratical system of paper blockade; to liberate our captured seamen on board her ships of war; relinquish the practice of imprisonment on board our merchant vessels; to repeal her orders in Council; and cease in every other respect to violate our neutral rights; to treat us as an independent people. The gentleman from Virginia [Mr. Randolph] has objected to the destination of this auxiliary force—the occupation of the Canadas and the other British possessions upon our borders where our laws are violated, the Indians stimulated to murder our citizens, and where there is a British monopoly of the peltry and fur trade. I should not wish to extend the boundary of the United States by war if Great Britain would leave us to the quiet enjoyment of independence; but, considering her deadly and implacable enmity, and her continued hostility, I shall never be contented until I see her expulsion from North America, and her territories incorporated with the United States.

The waters of the St. Lawrence and the Mississippi interlock and the great Disposer of Human Events intended those two rivers should belong to the same people.

But it has been denied that British influence had any agency in the late dreadful conflict and massacre upon the Wabash; and this is said to vindicate the British nation from so foul a charge. Sir, look to the book of the Revolution. See the Indian savages in Burgoyne's army urged on every occasion to use the scalping-knife and tomahawk—not in battle, but against old men and women, and children, in the night, when they were taught to believe an omniscient eye could not see their guilty deeds; and, thus hardened in iniquity, they perpetrated the same deeds by the light of the sun when no arm was found to oppose or protect. And when this crying sin was opposed by Lord Chatham in the House of Lords, the employment of these Indians was justified by a speech from one of the ministry. Thus we see how the principles of honor, of humanity, of Christianity were violated and justified in the face of the world. Therefore I can have no doubt of the influence of British agents

¹ See Volume I, page 217.

stances, what could you expect if they were the uncontrolled lords of the ocean? Had those privateers at Savannah borne British commissions, or had your shipments of cotton, tobacco, ashes, and what not to London and Liverpool been confiscated and the proceeds poured into the English exchequer—my life upon it!—you would never have listened to any miserable wire-drawn distinctions between "orders and decrees affecting our neutral rights," and "municipal decrees" confiscating in mass your whole property. You would have had instant war! The whole land would have blazed out in war.

And shall republicans become the instruments of him who has effaced the title of Attila to the "Scourge of God!" Yet even Attila, in the fallen fortunes of civilization, had, no doubt, his advocates, his tools, his minions, his parasites in the very countries that he overran—sons of that soil whereon his horses had trod; where grass could never after grow.

I beseech the House, before they run their heads against this post Quebec, to count the cost. My word for it, Virginia planters will not be taxed to support such a war—a war which must aggravate their present distresses; in which they have not the remotest interest. Where is the Montgomery, or even the Arnold, or the Burr who is to march to Point Levi?

I call upon those professing to be republicans to make good the promises held out by their republican predecessors when they came into power—promises which, for years afterwards, they had honestly, faithfully fulfilled. We had vaunted of paying off the national debt, of retrenching useless establishments; and yet had now become as infatuated with standing armies, loans, taxes, navies, and war as ever were the Essex Junto. What republicanism is this?

RICHARD M. JOHNSON.—For the first time since my entrance into this body there now seems to be but one opinion with a great majority—that with Great Britain war is inevitable; that the hopes of the sanguine as to a returning sense of British justice have expired; that the prophecies of the discerning have failed; and, that her infernal system has driven us to the brink of a second revolution as important as the first. Upon the Wabash, through the influence of British agents, and within our territorial sea by the British navy, the war has already commenced. Thus, the folly, the power, and the tyranny of Great Britain have taken from us the last alternative of longer forbearance.

We must now oppose the farther encroachments of Great Britain by war, or formally annul the Declaration of our Inde-

in keeping up Indian hostility to the people of the United States, independent of the strong proofs on this occasion; and I hope it will not be pretended that these agents are too moral or too religious to do the infamous deed. So much for the expulsion of Great Britain from her dominions in North America and their incorporation into the United States of America.

The gentleman from Virginia says we are identified with the British in religion, in blood, in language, and deeply laments our hatred to that country, who can boast of so many illustrious characters. This deep-rooted enmity to Great Britain arises from her insidious policy, the offspring of her perfidious conduct toward the United States. Her disposition is unfriendly; her enmity is implacable; she sickens at our prosperity and happiness. If obligations of friendship do exist, why does Great Britain rend those ties asunder and open the bleeding wounds of former conflicts? Or does the obligation of friendship exist on the part of the United States alone? I have never thought that the ties of religion, of blood, of language, and of commerce would justify or sanctify insult and injury—on the contrary, that a premeditated wrong from the hand of a friend created more sensibility and deserved the greater chastisement and the higher execration. What would you think of a man to whom you were bound by the most sacred ties who would plunder you of your substance, aim a deadly blow at your honor, and, in the hour of confidence, endeavor to bury a dagger in your bosom? Would you, sir, proclaim to the world your affection for this miscreant of society after this conduct, and endeavor to interest your audience with the ties of kindred that bound you to each other? So let it be with nations, and there will be neither surprise nor lamentation that we execrate a government so hostile to our independence—for it is from the government that we meet with such multiplied injury, and to that object is our hatred directed. As to individuals of merit, whether British or French, I presume no person would accuse the people of the United States of such hatred to them, or of despising individuals who might not be instrumental in the maritime despotism which we feel; and this accounts for the veneration we have for Sidney and Russell, statesmen of whom the gentleman has spoken; they are fatal examples why we should love the British Government. The records of that government are now stained with the blood of these martyrs in freedom's cause, as vilely as with the blood of American citizens; and certainly we shall not called upon to love equally the murderer and the victim. For God's sake let us not again be

told of the ties of religion, of laws, of blood, and of customs which bind the two nations together, with a view to extort our love for the English Government, and, more especially, when the same gentleman has acknowledged that we have ample cause of war against that nation—let us not be told of the freedom of that corrupt government whose hands are washed alike in the blood of her own illustrious statesmen for a manly opposition to tyranny and the citizens of every other clime. But I would inquire into this love for the British Government and British institutions, in the gross, without any discrimination. Why love her rulers? Why kiss the rod of iron which inflicts the stripes without a cause? When all admit we have just cause of war such attachments are dangerous and encourage encroachment. I will venture to say that our hatred of the British Government is not commensurate with her depredations and her outrages on our rights, or we should have waged a deadly war against her many years past. The subject of foreign attachments and British hatred has been examined at considerable length. I did not intend to begin that discussion, but I will pursue it, and, though I make no charge of British attachments, I will, at all times, at every hazard, defend the Administration and the Republican party against the charge of foreign partialities—French or Spanish, or any other kind—when applied to the measures of our Government. This foreign influence is a dangerous enemy; we should destroy the means of its circulation among us—like the fatal tunic, it destroys where it touches. It is insidious, invisible, and takes advantage of the most unsuspecting hours of social intercourse. I would not deny the good will of France nor of Great Britain to have an undue influence among us. But Great Britain alone has the means of this influence to an extent dangerous to the United States. It has been said that Great Britain was fighting the battles of the world—that she stands against universal dominion threatened by the arch-fiend of mankind. I should be sorry if our independence depended upon the power of Great Britain. If, however, she would act the part of a friendly power toward the United States I should never wish to deprive her of power, of wealth, of honor, of prosperity. But, if her energies are to be directed against the liberties of this free and happy people, against my native country, I should not drop a tear if the fast-anchored isle would sink into the waves, provided the innocent inhabitants could escape the deluge and find an asylum in a more favorable soil.

And as to the power of France, I fear it as little as any

other power; I would oppose her aggressions under any circumstances as soon as I would British outrages.

The ties of religion, of language, of blood, as it regards Great Britain, are dangerous ties to this country, with her present hostile disposition—instead of pledges of friendship they are used to paralyze the strength of the United States in relation to her aggressions. There are other ties equally efficacious. The number of her commercial traders within our limits, her agents, etc., the vast British capital employed in our commerce and our moneyed institutions, connected with her language, ancestry, customs, habits, and laws. These are formidable means for estranging the affections of many from our republican institutions, and producing partialities for Great Britain.

The gentleman from Virginia has called the military regular forces mercenaries. If, by this appellation, any reproach or degradation is intended, its justice and propriety is denied. In times like the present, when dangers thicken upon us, at the moment when we are compelled by most wanton tyranny upon the high seas, and upon land may be added, to abandon our peaceful habits for the din of arms, officers and soldiers in this country are governed by the noble feelings of patriotism and of valor. The history of the world may be ransacked; other nations may be brought in review before us, and examples of greater heroism cannot be quoted than shall be performed in battle by our officers and soldiers, military and naval marine. The deeds of their ancestors would be before them; glory would animate their bosoms, and love of country would nerve the heart to deeds of mighty fame. If, therefore, there should not be a diminution of respect for those who entertain an opinion so degrading to our army, it should at least be understood that such opinions do not lessen the confidence due to those who faithfully serve their country, and who would lay down their lives for it. This reflection brings to memory the late memorable conflict upon the Wabash. Governor Harrison pitched his tents near the Prophet's town; and, although this fanatic and his followers collected, and the American forces were anxious to finish the work by an open and daylight engagement, if there was a necessity to resort to arms, their impetuous valor was easily stayed, when they were informed that the white flag of peace was to be hoisted next morning, and the effusion of blood was to be spared. But in the silent watches of the night, relieved from the fatigues of valor, and slumbering under the perfidious promises of the savages, who were infuriated and made drunk by British traders, dreaming of

the tender smile of a mother, and the fond embraces of affectionate wives, and of prattling children upon their knees, on their return from the fatigues of a campaign!—the destroyers came with the silent instruments of death—the war-club, the scalping-knife, the tomahawk, and the bow and arrow; with these they penetrate into the heart of our forces—they enter the tents of our officers—many close their eyes in death—it was a trying moment for the rest of our heroes, but they were equal to the dreadful occasion. The American forces flew to arms; they rallied at the voice of their officers, and soon checked the work of death. The savages were successively and successfully charged and driven until daylight, when they disappeared like the mist of morning. In this dreadful conflict many were killed and wounded on both sides; and the volunteers and the regiment under Colonel Boyd acted and fought with equal bravery and to their immortal honor. The volunteers from Kentucky were men of valor and worth—young men of hopeful prospects, and married men of reputation and intelligence, governed by no mercenary views—honor prompted them to serve their country. Some of these fallen heroes were my acquaintances, my friends: one not the least conspicuous lived in my district—Colonel Owens; Colonel Daviess, a neighbor. You, Mr. Speaker, know the worth of some of these men; and I regret that you are not in my place to speak their praise. So long as the records of this transaction remain, the 9th of November will not be forgotten, and time shall only brighten the fame of the deeds of our army, and a tear shall be shed for those who have fallen.

ROBERT WRIGHT.—I, sir, shall take the liberty of varying the question from the honorable member from Virginia [Mr. Randolph] who, yesterday, considered it a question of peace or war. I shall consider it as a question of war or submission, dire alternatives, of which, however, I trust no honest American can hesitate in choosing when the question is correctly stated and distinctly understood. The gentleman from Virginia contends that it is a dispute about the carrying trade, brought on us by the cupidity of the American merchants, in which the farmer and planter have little interest; that he will not consent to tax his constituents to carry on a war for it; that the enemy is invulnerable on the "mountain wave," the element of our wrongs, but should they violate the "*natale solum*,"¹ he would point all the energies of the nation and avenge the wrong. Was that gentleman stricken on the nose by a man so tall that he could not reach his nose, I strongly incline to think his manly

pride would not permit him to decline the conflict. Sir, the honorable member is incorrect in his premises, and, of course, in his conclusions. I will endeavor to convince him of this, and shall be gratified if I can enlist his talents on the side of a bleeding country. Sir, the violations of the commercial rights of which we complain do not only embrace the carrying trade, properly so called, but also the carrying of the products of our own soil, the fruits of our own industry; these, although injurious only to our property, are just causes of war. But, sir, the impressment of our native seamen is a stroke at the vitals of liberty itself, and, although it does not touch the "*natale solum*," yet it enslaves the "*nativos filios*"—the native sons of America; and, in the ratio that liberty is preferable to property, ought to enlist the patriotic feelings of that honorable member and make his bosom burn with that holy fire that inspired the patriots of the Revolution.

Sir, the carrying trade—by which I mean the carrying of articles, the growth, produce, or manufacture of a foreign clime—except articles contraband of war—is as much the right of the American people as the carrying of the products of their own soil, and is not only secured by the law of nations, but by the positive provisions of the British treaty. To us, sir, it is an all-important right. We import from the West Indies, annually, property to the amount of forty millions of dollars, for which we pay in the products of our own soil; of this, ten millions are consumed in the United States and the surplus thirty millions are exported to foreign countries, on which the American merchant pays three per cent. on the duties to the United States, obtains the profits on the freight of thirty millions of dollars, and furnishes a market for American productions to the same amount.

Mr. Speaker, the gentleman from Virginia has declared that, if he could believe that the late massacre of the troops in the attack on Governor Harrison by the Indians under the Prophet was the effect of British agency he would unite with us, heart and hand, and personally assist to avenge the bloody deed. I feel a confidence that, if the gentleman will attend to the circumstances of this case and take a retrospective view of the conduct of the British Government, he will feel no doubt of the fact.

At the late great council with Governor Harrison the chiefs of many tribes were convened, all of whom, except Tecumseh, the Prophet's brother, in their speeches avowed their friendly dispositions and their devotion to peace with the United States.

¹"Native soil."

Tecumseh, who, with a number of his tribe, came from Fort Malden in Canada, declared his hostile intentions against the United States, left the council with that avowed intention, and returned again to Fort Malden. Shortly after this the Shawanees assembled a large body in arms in the Indian Territory under the Prophet, and committed the assault on the troops of Governor Harrison, though they have paid for their temerity. This, I trust, connected as it is with the immorality and extraordinary pretensions of that government at this crisis, will satisfy, not only the gentleman from Virginia, but this House, of a British agency in the case.

Mr. Speaker, I regret that the gentleman from Virginia should ascribe to gentlemen of the West a disposition for war, with a view to raise the price of their hemp; or to the gentlemen of the North, with a view to raise the price of their beef and flour. These, sir, are selfish motives, and such I cannot for a moment believe will be taken into consideration; they will, with every other section of the Union, unite in deciding it on its merits; they will count the wrongs we have sustained; they will reflect that the honor, the interest, and the very independence of the United States are directly attacked; they will, as guardians of the nation's rights, agreeably to the advice of the administration "put the United States into an armor and an attitude demanded by the crisis, and correspondent with the national spirit and expectations"; they will prepare to chastise the wrongs of the British cabinet which, the President tells us, "have the character as well as the effect of war on our commercial rights which no independent nation can relinquish." They will decide, with the President, the executive organ of the nation's will, "that these wrongs are no longer to be endured." They will decide, with the Committee of Foreign Relations, "that forbearance longer to repel these wrongs has ceased to be a virtue," and I hope they will decide with me that submission is a crime; and, sir, if they will examine a document on that table, I mean the returns of the Twelfth Congress, and compare them with the eleventh, they will find nearly one-half of the eleventh Congress removed. This, sir, may correctly be considered as the sentence of the nation against the doctrine of submission; it is certainly an expression of the nation's will in a language not to be misunderstood and too serious in its application not to be respected.

Mr. Speaker, the gentleman from Virginia says he expects to be charged with being under British influence; however, he disregarded it. I assure him I shall not be one of his accusers;

I believe him governed by *himself*, and influenced by pure American motives, and that, if he saw the subject as I do, his bosom would burn with the same sacred fire to avenge our wrongs; and were I to hear him charged in his absence with British influence I should repel it, notwithstanding he has told us, in a prideful manner, that he had descended from British ancestors; that, from a Shakespeare he had formed his taste, from a Locke his mind, from a Chatham his politics, from a Sydney his patriotism, from a Tillotson his religion. Mr. Speaker, had I been that honorable member I should have boasted a nobler line of ancestry; I should have claimed my descent from the beardless Powhatan and the immortal Pocahontas,¹ and I should have taken as models, from my own State, a Henry for my eloquence, a Jefferson for my politics, a Washington for my patriotism, and a Madison, or rather the Oracles of Revolution, for my religion. But, sir, I am myself so much a Roman that I can truly say, in their language:

"*Aut genus aut proavos, aut qua non fecimus ipse, viz ea nostra voco.*"²

"Honor and shame from no condition rise,
Act well your part, there all the honor lies."

Sir, the charge of foreign influence and the recrimination of one political party by the other are unpleasant things. I should rejoice to see the curtain of oblivion drawn over them and all uniting under the nobler distinction of American.

MR. CALHOUN.—Sir, I am not insensible to the weighty importance of this question, for the first time submitted to this House, as a redress of our long list of complaints against one of the belligerents; but, according to my mode of thinking on this subject, however serious the question, whenever I am on its affirmative side my conviction must be strong and unalterable. War, in this country, ought never to be resorted to but when it is clearly justifiable and necessary; so much so as not to require the aid of logic to convince our reason, nor the ardor of eloquence to inflame our passions. There are many reasons why this country should never resort to it but for causes the most urgent and necessary. It is sufficient that, under a government like ours, none but such will justify it in the eye of the nation; and, were I not satisfied that such is the present case, I certainly would be no advocate of the proposition now before the House.

¹ Randolph was a descendant of these Indians.

² "Neither race, nor ancestors, nor ought save what I myself have accomplished hardly do I call mine."

Sir, I might prove the war, should it ensue, justifiable by the express admission of the gentleman from Virginia; and necessary by facts undoubted and universally admitted, such as that gentleman did not pretend to controvert. The extent, duration, and character of the injuries received; the failure of those peaceful means heretofore resorted to for the redress of our wrongs, is my proof that it is necessary. Why should I mention the impressment of our seamen; depredation on every branch of our commerce, including the direct export trade, continued for years, and made under laws which professedly undertake to regulate our trade with other nations; negotiation resorted to time after time, till it is become hopeless; the restrictive system persisted in to avoid war, and in the vain expectation of returning justice? The evil still grows, and in each succeeding year swells in extent and pretension beyond the preceding. The question, even in the opinion and admission of our opponents, is reduced to this single point—which shall we do, abandon or defend our own commercial and maritime rights, and the personal liberties of our citizens employed in exercising them? These rights are essentially attacked, and the war is the only means of redress. The gentleman from Virginia has suggested none—unless we consider the whole of his speech as recommending patient and resigned submission as the best remedy. Sir, which alternative this House ought to embrace it is not for me to say. I hope the decision is made already by a higher authority than the voice of any man. It is not for the human tongue to instill the sense of independence and honor. This is the work of nature—a generous nature, that disdains tame submission to wrongs.

This part of the subject is so imposing as to enforce silence even on the gentleman from Virginia. He dared not to deny his country's wrongs, or vindicate the conduct of her enemy.

Only one point of that gentleman's argument had any, the most remote, relation to this point. He would not say we had not a good cause of war, but insisted that it was our duty to define that cause. If he means that this House ought, at this stage of the proceeding, or any other, to enumerate such violations of our rights as we are willing to contend for, he prescribes a course which neither good sense nor the usage of nations warrants. When we contend, let us contend for all our rights; the doubtful and the certain, the unimportant and essential. It is as easy to struggle, or even more so, for the whole as a part. At the termination of the contest secure all that our wisdom and valor and the fortune of the war will permit. This is the

dictate of common sense; such, also, is the usage of nations. How, then, could the gentleman, after his admissions, with the facts before him and the nation, complain? The causes are such as to warrant, or rather make it indispensable in any nation not absolutely dependent to defend its rights by force. Let him, then, show the reasons why we ought not so to defend ourselves. On him, then, is the burden of proof. This he has attempted; he has endeavored to support his negative. Before I proceed to answer the gentleman particularly, let me call the attention of the House to one circumstance: that is, that almost the whole of his arguments consisted of an enumeration of evils always incident to war, however just and necessary; and that, if they have any force, it is calculated to produce unqualified submission to every species of insult and injury. I do not feel myself bound to answer arguments of the above description; and, if I should touch on them, it will be only incidentally and not for the purpose of serious refutation. The first argument of the gentleman which I shall notice is the unprepared state of the country. Whatever weight this argument might have in a question of immediate war it surely has little in that of preparation for it. If our country is unprepared, let us remedy the evil as soon as possible. Let the gentleman submit his plan; and, if a reasonable one, I doubt not it will be supported by the House. But, sir, let us admit the fact and the whole force of the argument, I ask whose is the fault? Who has been a member for many years past, and has seen the defenceless state of his country even near home, under his own eyes, without a single endeavor to remedy so serious an evil? Let him not say: "I have acted in a minority." It is no less the duty of the minority than a majority to endeavor to serve our country. For that purpose we are sent here, and not for that of opposition. We are next told of the expenses of the war, and that people will not pay taxes. Why not? Is it a want of capacity? What, with one million tons of shipping, a trade of near \$100,000,000, manufactures of \$150,000,000, and agriculture of thrice that amount, shall we be told the country wants capacity to raise and support ten thousand or fifteen thousand additional regulars? No; it has the ability, that is admitted; but will it not have the disposition? Is not the course a just and necessary one? Shall we, then, utter this libel on the nation? Where will proof be found of a fact so disgraceful? It is said in the history of the country twelve or fifteen years ago. The case is not parallel. The ability of the country is greatly increased since. The object of that tax was unpopular. But

on this, as well as my memory and almost infant observation at that time serve me, the objection was not to the tax or its amount, but the mode of collection. The eye of the nation was frightened by the number of officers; its love of liberty shocked with the multiplicity of regulations. We, in the vile spirit of imitation, copied from the most oppressive part of European laws on that subject, and imposed on a young and virtuous nation all the severe provisions made necessary by corruption and long growing chicanery. If taxes should become necessary I do not hesitate to say the people will pay cheerfully. It is for their Government and their cause, and it would be their interest and duty to pay. But it may be, and I believe was, said that the nation will not pay taxes because the rights violated are not worth defending, or that the defence will cost more than the profit. Sir, I here enter my solemn protest against this low and "calculating avarice" entering this hall of legislation. It is fit only for shops and counting-houses, and ought not to disgrace the seat of sovereignty by its squalid and vile appearance. Whenever it touches sovereign power, the nation is ruined. It is too short-sighted to defend itself. It is an unpromising spirit, always ready to yield a part to save the balance. It is too timid to have in itself the laws of self-preservation. It is never safe but under the shield of honor.

Sir, I know of only one principle to make a nation great, to produce in this country not the form but real spirit of union, and that is to protect every citizen in the lawful pursuit of his business. He will then feel that he is backed by the Government; that its arm is his arms; and will rejoice in its increased strength and prosperity. Protection and patriotism are reciprocal. This is the road that all great nations have trod. Sir, I am not versed in this calculating policy; and will not, therefore, pretend to estimate in dollars and cents the value of national independence or national affection. I cannot dare to measure, in shillings and pence, the misery, the stripes, and the slavery of our impressed seamen; nor even to value our shipping, commercial, and agricultural losses under the Orders in Council and the British system of blockade. I hope I have not condemned any prudent estimate of the means of a country before it enters on a war. This is wisdom, the other folly. Sir, the gentleman from Virginia has not failed to touch on the calamity of war; that fruitful source of declamation by which pity becomes the advocate of cowardice; but I know not what we have to do with that subject. If the gentleman desires to repress the gallant ardor of our countrymen by such topics, let me inform him

that true courage regards only the cause—that it is just and necessary—and that it despises the pain and danger of war. If he really wishes to promote the cause of humanity, let his eloquence be addressed to Lord Wellesley or Mr. Percival, and not the American Congress. Tell them, if they persist in such daring insult and injury to a neutral nation, that, however inclined to peace, it will be bound in honor and interest to resist; that their patience and benevolence, however great, will be exhausted; that the calamity of war will ensue; and that they, in the opinion of wounded humanity, will be answerable for all its devastation and misery. Let melting pity and regard to the interest of humanity stay the hand of injustice, and, my life on it, the gentleman will not find it difficult to call off his country from the bloody scenes of war.

We are next told of the danger of war! I believe we are all ready to acknowledge its hazard and accidents; but I cannot think we have any extraordinary danger to contend with, at least so much as to warrant an acquiescence in the injuries we have received. On the contrary, I believe no war can be less dangerous to internal peace or national existence. But we are told of the black population of the South. As far as the gentleman from Virginia speaks of his own personal knowledge I will not pretend to contradict him; I only regret that such is the dreadful state of his particular part of the country. Of the Southern section I, too, have some personal knowledge, and can say that in South Carolina no such fears in any part are felt. But, sir, admit the gentleman's statement; will a war with Great Britain increase the danger? Will the country be less able to repress insurrection? Had we any thing to fear from that quarter, which I sincerely disbelieve, in my opinion, the precise time of the greatest safety is during a war in which we have no fear of invasion—then the country is most on its guard; our militia the best prepared; and standing force the greatest. Even in our Revolution no attempts were made by that portion of our population; and, however the gentleman may frighten himself with the disorganizing effects of French principles, I cannot think our ignorant blacks have felt much of their baneful influence. I dare say more than one-half of them never heard of the French Revolution.

But, as great as is the danger from our slaves, the gentleman's fears end not there—the standing army is not less terrible to him. Sir, I think a regular force, raised for a period of actual hostilities, cannot be called a standing army. There is a just distinction between such a force, and one raised as a

peace establishment. Whatever may be the composition of the latter, I hope the former will consist of some of the best materials of the country. The ardent patriotism of our young men, and the reasonable bounty in land which is proposed to be given, will impel them to join their country's standard and to fight her battles; they will not forget the citizen in the soldier, and, in obeying their officer, learn to condemn their Constitution. In our officers and soldiers we will find patriotism no less pure and ardent than in the private citizen; but, if they should be depraved, as represented, what have we to fear from twenty-five or thirty thousand regulars? Where will be the boasted militia of the gentleman? Can one million of militia be overpowered by thirty thousand regulars? If so, how can we rely on them against a foe invading our country? Sir, I have no such contemptuous idea of our militia—their untainted bravery is sufficient to crush all foreign and internal attempts on their country's liberties.

But we have not yet come to the end of the chapter of dangers. The gentleman's imagination, so fruitful on this subject, conceives that our Constitution is not calculated for war, and that it cannot stand its rude shock. This is rather extraordinary—we must depend upon the pity or contempt of other nations for our existence. The Constitution, it seems, has failed in its essential part, "to provide for the common defence." No, says the gentleman from Virginia, it is competent for a defensive, but not an offensive, war. It is not necessary for me to expose the error of this opinion. Why make the distinction in this instance? Will he pretend to say that this is an offensive war; a war of conquest? Yes, the gentleman has dared to make this assertion; and for reasons no less extraordinary than the assertion itself. He says our rights are violated on the ocean, and that these violations affect our shipping and commercial rights, to which the Canadas have no relation. The doctrine of retaliation has been much abused of late by an unnatural extension; we have now to witness a new abuse. The gentleman from Virginia has limited it down to a point. By his system, if you receive a blow on the breast, you dare not return it on the head, you are obliged to measure and return it on the precise point on which it was received. If you do not proceed with mathematical accuracy it ceases to be just self-defence; it becomes an unprovoked attack. In speaking of Canada the gentleman from Virginia introduced the name of Montgomery with much feeling and interest. Sir, there is danger in that name to the gentleman's argument. It is sacred to heroism! It is indignant

of submission! This calls my memory back to the time of our Revolution; to the Congress of '74 and '75. Supposing a speaker of that day had risen and urged all the arguments which we have heard on this subject; had told that Congress: "your contest is about the right of laying a tax, and that the attempt on Canada had nothing to do with it; that the war would be expensive; that danger and devastation would over-spread our country; and that the power of Great Britain was irresistible." With what sentiment, think you, would such doctrines have been received? Happy for us, they had no force at that period of our country's glory. Had they been then acted on, this hall would never have witnessed a great nation convened to deliberate for the general good; a mighty empire, with prouder prospects than any nation the sun ever shone on would not have risen in the West. No; we would have been vile, subjected colonies; governed by that imperious rod which Great Britain holds over her distant provinces.

The gentleman from Virginia is at a loss to account for what he calls our hatred to England. He asks how can we hate the country of Locke, of Newton, Hampden, and Chatham; a country having the same language and customs with ourselves, and descending from a common ancestry. Sir, the laws of human affections are uniform. If we have so much to attach us to that country powerful indeed must be the cause which has overpowered it.

Yes, sir, there is a cause strong enough. Not that occult courtly affection which he has supposed to be entertained for France; but it is to be found in continued and unprovoked insult and injury. A cause so manifest that the gentleman from Virginia had to exert much ingenuity to overlook it. But, sir, here I think the gentleman, in his eager admiration of that country, has not been sufficiently guarded in his argument. Has he reflected on the cause of that admiration? Has he examined the reasons of our high regard for her Chatham? It is his ardent patriotism; his heroic courage of his mind that could not brook the least insult or injury offered to his country, but thought that her interest and honor ought to be vindicated at every hazard and expense.

[Here Mr. Calhoun indulged in a rather ungenerous comparison between Lord Chatham and Mr. Randolph, the Representative from Virginia having challenged it, which, on reflection, the young member from South Carolina caused to be omitted from the recorded speech.]

MR. RANDOLPH.—The nation has been brought into its present alarming and unprecedented situation by means in nowise unaccountable—by steps as direct and successive as Hogarth's celebrated series of prints, "The Rake's Progress," beginning at the gaming table and ending in a jail, or in bedlam. We commenced our system somewhat on the plan of Catharine of Russia, when she lent her nominal aid to the coalition; we had dealt even more profusely than she in manifestoes; we began, under the instigation of mercantile cupidity, to contend by proclamations and resolutions for the empire of the ocean. But, instead of confining ourselves as she had done to this bloodless warfare, we must copy the wise example of her successors, and, after our battle of Friedland, I suppose we also shall have our peace of Tilsit.

The gentleman from Maryland has expressed surprise at my manner of speaking of our origin from an English stock. We were vastly particular about the breed of our horses, cattle, and sheep, but careless of the breed of human nature. And yet to our Anglo-Saxon origin we owe our resistance to British tyranny. Whence, but from that origin came all the blessings of life, so far as political privileges are concerned? To what is it owing that we are at this moment deliberating under the forms of a free representative government? Had we sprung from the loins of Frenchmen (he shuddered at the thought!) where would have been that proud spirit of resistance to ministerial encroachment on our rights and liberties which achieved our independence? In what school had the illustrious men of the Revolution formed those noble principles of civil liberty asserted by their eloquence and maintained by their arms? Among the grievances stated in their remonstrance to the King a "standing army" met us at the threshold. It was curious to see in that list of wrongs so many that had since been self-inflicted by us.

I will forever stand up for the militia. It is not in the scoffs of the epaulette gentry, who, for any service they have seen, are the *rawest militia*, to degrade them in my eyes. Who are they? Ourselves—the country. Arm them and you are safe, beyond the possibility of danger. Yearly did the standing army sweep off the money, while the militia received empty praise. I would rather see the thing reversed. But there will forever be a court and country party. The standing army is the devoted creature of the court. It must forever be so. Can we wonder that it should be cherished by its master? I will ever uphold the militia; but I detest standing armies as the profligate instruments

under this joint operation of the two parties, ministerial and federal, to the poor client between two lawyers, or the cloth between the tailor's shears.

I am glad to hear that this is not to be a party war. When the last additional force bill was raised, to which this was about to be superadded, it was an indispensable preliminary to an appointment to sign, or to promise to sign, the thirty-nine articles of the creed of the reigning political church. But now the political millennium was at hand—already had John Adams and Citizen Genet laid down, like the lion and the lamb, in the same fold. And, if they were not joined by their fellow-laborer in Newgate, it was his keeper's fault, not that of his inclination. Citizen Genet, now an American patriot of the first order, who extols "our Washington"; the champion of the laws of nations; the vindicator of American rights against foreign (and, of course, French) aggression!

I am glad to hear that it is not to be a war for the protection of manufactures. To domestic manufactures, in the true sense of the term, I have always been, and ever shall be, a friend; I have taken a pride in clothing myself in them until it was attempted to be made a political test. I abhor tests of all sorts, political and religious, and never will submit to them. I am sick of this cant of patriotism which extends to a man's victuals, drink, and clothes. I have, from a sort of obstinacy that belongs to me, laid aside the *external* use of these manufactures; but I am their firm friend, and of the manufacturers also. They are no new things to me; no Merino hobby of the day; I have known them from my infancy.

On April 1, 1812, President Madison, reverting to his favorite weapon of commercial restrictions, sent a confidential message to Congress which proposed as "expedient under existing circumstances and prospects" a general embargo for sixty days.

This was discussed in executive session, the proceedings, however, being printed later by order of the House.

The debate centered upon the question as to whether the embargo was what it was evidently intended to mean, namely, a genuine preparation for war, or whether it was another measure in the long series of commercial restrictions on which the Government had thus far vainly relied to bring Great Britain to terms. Henry Clay

of despotism, as the bloodhounds of hell. They would support any and every existing government. In all history I remember only one instance of their deserting their government and taking part with the people: and that was when the Duke of Orleans had bribed the army of the last of the Bourbon Kings. A mercenary soldier is disgusting to our senses; odious and detestable to the eye of reason, republicanism, and religion. Yet, that "mere machine of murder," rude as it is, was the manufacturer of all the Cæsars and Cromwells, and Bonapartes of the earth; consecrated by a people's curse, not loud but deep, to the infernal gods. As from the filth of the kennel and common sewer spread the pestilence that carried havoc through a great city, so from this squalid, outcast, homeless wretch springs the scourge of military despotism. And yet we are told that there is no danger from an army of thirty or forty thousand men. With five thousand Cæsar had passed the Rubicon. With twenty-two thousand he fought the battle of Pharsalia which rendered him master of the world. To come to later times—what number had Bonaparte when, deserting his companions in arms, he returned a solitary fugitive from Egypt, to overturn that government which, if it had possessed one particle of energy, if it had been possible for the civil authority to cope with military power, would have cashiered him for having ruined one of the best-appointed fleets and armies that ever sailed from a European port? Well might the father of political wisdom (Lord Chatham) say to the Parliament of England: "entrench yourselves in parchment to the teeth, the sword will find a passage to the vitals of the constitution." As good a Republican as ever sat on that floor (Andrew Fletcher of Saltoun) had dissolved his political friendship with the Earl of Sunderland when he found him supporting an army; and the event justified his sagacity. Cromwell, the affected patron of liberty, always encouraged the army. We know the consequence. It was a fundamental principle of free government that a legislature which would preserve its liberty must avoid that canker, a standing army. Are we to forget, as chimerical, our notions of this institution which we imbibed from our very cradles, which are imprinted on our bills of rights and Constitutions, which we avowed under the reign of John Adams? Are they to be scourged out of us by the birch of the unfledged political pedagogues of the day? If I were the enemy of this Government, could I reconcile it to my principles, I would follow the example set me in another quarter and say to the majority, *go to your inevitable destruction!* I liken the people

[Ky.], the Speaker of the House, upheld the former view. He was opposed by John Randolph and Josiah Quincy, 3rd [Mass.].

THE WAR EMBARGO

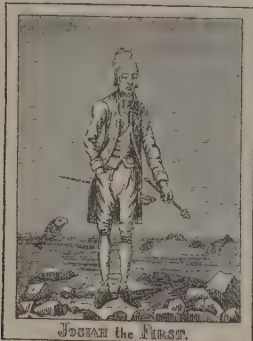
HOUSE OF REPRESENTATIVES, APRIL 1-3, 1812

MR. CLAY warmly expressed his satisfaction and full approbation of the message, and the proposition now before the committee. He approved of it because it is to be viewed as a direct precursor to war. Sir, said Mr. C., after the pledges we have made, and the stand we have taken, are we now to cover ourselves with shame and indelible disgrace by retreating from the measures and grounds we have taken? He said what would disgrace an individual under certain circumstances would disgrace a nation. And what would you think of one individual who had thus conducted to another, and should then retreat? He said there was no intrinsic difficulty or terror in the war: there was no terror except what arises from the novelty. Where are we to come in contact with our enemy? On our own continent. If gentlemen please to call these sentiments Quixotic he would say he pitied them for their sense of honor. We know no pains have been spared to vilify the Government. If we now proceed we shall be supported by the people. Many of our people have not believed that war is to take place. They have been wilfully blinded. He was willing to give them further notice. It remains for us to say whether we will shrink or follow up the patriotic conduct of the President. As an American and a member of this House he felt a pride that the Executive had recommended this measure.

MR. RANDOLPH was confident in declaring that this was not a measure of the Executive—that it was engendered by an extensive excitement upon the Executive. Whose ever measure it is the people of the United States will consider it as a subterfuge for war; as a retreat from the battle. We some years ago resolved that we must have war, embargo, or submission—we have not had war or submitted—we must therefore have embargo. It appears to be limited to sixty days; at the expiration of that time will any one say we shall be prepared for war? Sir, we are in the situation of a debtor who promises to pay his note at the bank in sixty days—we shall prolong the time sixty days, and sixty days after that, until deferred hope makes the heart sick. He would tell the honorable Speaker that, at the end of sixty days, we shall not have war, and the reason is the

Executive dare not plunge the nation into a war in our unprepared state.

Are the majority, in consequence of having been goaded by the presses, to plunge the people into a war by bringing them first to the whipping-post and then by exciting their spirit? He would assure the House the spirit of the people is not up to it at this time; if so, there would be no necessity of those provocations to excite this false spirit—this kind of Dutch courage. If you mean war, if the spirit of the country is up to it, why have you been spending five months in idle debate?



From Lossing's "Field Book of the War of 1812"

Mr. QUINCY expressed in strong terms his abhorrence of the measure. He said that his objection was that it was not what it pretended to be; and was what it pretended not to be. That it was not embargo preparatory to war; but that it was embargo as a substitute for the question of declaring war.

But it is said "we must protect our merchants." Heaven help our merchants from *embargo-protection*! It is also said that "the present condition of things has been brought upon the country by the merchants; that it was their clamor, in 1805 and 1806, which first put Congress upon this system of coercive restriction, of which they now so much complain." It is true that, in those years, the merchants did petition, not for embargo, not for commercial embarrassment and annihilation, but for protection. They, at that time, really thought

that this national Government was formed for protection, and that it had at heart the prosperity of all the great interests of the country. If "it was a grievous fault, grievously have the merchants answered it." They asked you for relief and you sent them embarrassment. They asked you for defence and you imposed embargo. They "asked bread and you gave them a stone." They "asked a fish and you gave them a serpent." Grant that the fault was great, suppose that they did mistake the nature and character of the Government, is the penalty they incurred by this error never to be remitted? Permit them once to escape and, my word for it, they will never give you an apology for this destructive protection. If they do they will richly deserve all the misery which, under the name of protection, you can find means to visit upon them. Your tender mercies are cruelties. The merchants hate and spurn this ruinous defence.

Seeing the war spirit in Congress President Madison laid aside his pet remedy of commercial retaliation against British aggression, and reluctantly resorted to armed resistance.

THE WAR OF 1812

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DECLARATION OF WAR

The message was referred to a committee of which John C. Calhoun was chairman. On June 3 he brought in the report of the committee which reviewed the case against Great Britain even more fully than the President had done, and concluded with the recommendation of an immediate appeal to arms.

"Your committee, believing that the free-born sons of America are worthy to enjoy the liberty which their fathers purchased at the price of so much blood and treasure, and seeing, in the measures adopted by Great Britain, a course commenced and persisted in, which must lead to a loss of national character and independence, feel no hesitation in advising resistance by force; in which the Americans of the present day will prove to the enemy and to the world that we have not only inherited that liberty which our fathers gave us, but also the will and power to maintain it. Relying on the patriotism of the nation, and confidently trusting that the Lord of Hosts will go with us to battle in the righteous cause and crown our efforts with success, your committee recommend an immediate appeal to arms."

On June 16, 1812, the Senate passed a bill declaring war with Great Britain. It was concurred in by the House on June 18, and approved by the President on the same day.

The minority in the House of Representatives drew up the following protest against the declaration, which they addressed to their constituents:

The momentous question of war with Great Britain is decided. On this topic, so vital to your interests, the right of public debate, in the face of the world, and especially of their constituents, has been denied to your Representatives. They have been called into secret session on this most interesting of all your public relations, although the circumstances of the time and of the nation afforded no one reason for secrecy, unless it be found in the apprehension of the effect of public debate on public opinion; or of public opinion on the result of the vote.

Except the message of the President of the United States, which is now before the public, nothing confidential was communicated. That message contained no fact not previously

CHAPTER VII

THE SECOND WAR WITH GREAT BRITAIN

President Madison's Message on Relations with Great Britain—Declaration of War—Protest of the Minority—The President's Message on "The Justice of the War"—Debate on Bill to Raise Additional Troops; It Develops into One on the Justice and Expediency of the War: in Favor of the War: Felix Grundy [Tenn.], Henry Clay [Ky.]; Opposed, Joseph Pearson [N. C.], Timothy Pitkin, Jr. [Conn.], Josiah Quincy, 3rd [Mass.], John Randolph [Va.]—New England State Governments Oppose Call for Troops as Unconstitutional—Debate in the House of Representatives Between Daniel Webster [N. H.], in Opposition to the War, and John C. Calhoun [S. C.] in Its Defence—The Hartford Convention—The Treaty of Ghent.

ON June 1, 1812, the President sent a message to Congress which, exhaustively reviewing our relations with Great Britain, summed up the situation as follows:

We behold, in fine, on the side of Great Britain, a state of war against the United States; and, on the side of the United States, a state of peace toward Great Britain.

Whether the United States shall continue passive under these progressive usurpations, and their accumulating wrongs, or, opposing force to force in defence of their national rights, shall commit a just cause into the hands of the Almighty Disposer of Events, avoiding all connections which might entangle it in the contest or views of other powers, and preserving a constant readiness to concur in an honorable reestablishment of peace and friendship, is a solemn question which the Constitution wisely confides to the legislative department of the Government. In recommending it to their early deliberation, I am happy in the assurance that the decision will be worthy the enlightened and patriotic councils of a virtuous, a free, and a powerful nation.

known. No one reason for war was intimated but such as was of a nature public and notorious. The intention to wage war and invade Canada had been long since openly avowed. The object of hostile menace had been ostentatiously announced. The inadequacy of both our army and navy for successful invasion, and the insufficiency of the fortifications for the security of our seaboard, were everywhere known. Yet the doors of Congress were shut upon the people. They have been carefully kept in ignorance of the progress of measures, until the purposes of the administration were consummated and the fate of the country sealed. In a situation so extraordinary the undersigned have deemed it their duty by no act of theirs to sanction a proceeding so novel and arbitrary. On the contrary, they made every attempt in their power to attain publicity for their proceedings. All such attempts were vain. When this momentous subject was stated as for debate, they demanded that the doors should be opened.

This being refused, they declined discussion; being perfectly convinced, from indications too plain to be misunderstood, that, in the House, all argument with closed doors was hopeless, and that any act giving implied validity to so flagrant an abuse of power would be little less than treachery to the essential rights of a free people.

A RIGHTEOUS WAR

MESSAGE TO CONGRESS BY PRESIDENT MADISON

In his annual message to Congress at its next session, in November, 1812, the President, after stating the military operations which had been undertaken, and recommending measures of war proper to the circumstances, said:

Above all, we have the inestimable consolation of knowing that the war in which we are actually engaged is a war neither of ambition nor of vain glory; that it is waged, not in violation of the rights of others, but in the maintenance of our own; that it was preceded by a patience without example, under wrongs accumulating without end; and that it was finally not declared until every hope of averting it was extinguished by the transfer of the British scepter into new hands clinging to former councils; and, until declarations were reiterated to the last hour, through the British envoy here, that the hostile edicts against

our commercial rights and our maritime independence would not be revoked; nay, that they could not be revoked without violating the obligations of Great Britain to other powers, as well as to her own interests. To have shrunk, under such circumstances, from manly resistance would have been a degradation blasting our best and proudest hopes; it would have struck us from the high ranks where the virtuous struggles of our fathers had placed us, and have betrayed the magnificent legacy which we hold in trust for future generations. It would have acknowledged that, on the element which forms three-fourths of the globe we inhabit, and where all independent nations have equal and common rights, the American people were not an independent people, but colonists and vassals. It was at this moment, and with such an alternative, that war was chosen. The nation felt the necessity of it and called for it. The appeal was accordingly made, in a just cause, to the just and all-powerful Being who holds in His hand the chain of events and the destiny of nations. It remains only that, faithful to ourselves, entangled in no connections with the views of other powers, and ever ready to accept peace from the hand of justice, we prosecute the war with united counsels and with the ample faculties of the nation, until peace be so obtained and as the only means, under the Divine blessing, of speedily obtaining it.

A bill to raise an additional military force which it was intended to use for the conquest of Canada (a pet plan of the Administration) was introduced in the House of Representatives on December 24, 1812, by David R. Williams, of South Carolina, chairman of the Committee on Military Affairs. It was debated from December 29, 1812, to January 14, 1813, when it was passed by a vote of 77 to 42.

Of this debate Senator Benton says, in his "Debates of Congress":

This debate, although arising on a subject which implied a limited discussion, soon passed beyond its apparent bounds, and, instead of being confined to the simple military question of raising additional troops, expanded into a discussion of the whole policy, objects, and causes of the war, and became the principal debate of the session. All the leading members of the House took part in it; and many new members, then young, and whose names have since become famous, then took their start.

The chief speakers in favor of a continuance of the war were: Felix Grundy [Tenn.] and Henry Clay [Ky.]. Leading opponents of the war were: Joseph Pearson [N. C.], Timothy Pitkin, Jr. [Conn.], Josiah Quincy, 3rd [Mass.], and John Randolph [Va.].

THE CONTINUANCE OF THE WAR

HOUSE OF REPRESENTATIVES, DECEMBER 29, 1812-JANUARY 14, 1813

MR. PEARSON.—Mr. Speaker: Whatever may have been the original causes for the declaration of this war, we are now taught to believe that the question in contest is reduced to a single point. The British Orders in Council were repealed on the 21st of June, three days after our declaration of war; and, of course, without a knowledge of that event, the blockade of May, 1806, had long ceased to exist. The sole avowed cause, therefore, remaining, and for which the war is now carried on, is the practice of impressment from on board our merchant vessels. This subject has for many years engaged the attention of both nations; it has been a fruitful theme of execration and declamation for almost every editor and orator of the age. Great as our cause of complaint may have been (and I am not disposed to palliate it), it must be admitted by all who understand the nature and true bearing of the question that it had been subjected to much exaggeration. Permit me, sir, to remark that, notwithstanding the importance, the difficulty, and delicacy which have been justly attributed to this subject, and the unwillingness at all times manifested on the part of the British Government to abandon or derogate from the abstract right of impressing her own seamen from on board neutral merchant vessels, it is very far from being certain that she has not been willing to enter into such arrangement with this Government as would place the question of impressment on a basis both safe and honorable to this nation. By a reference to the correspondence of Messrs. Monroe and Pinkney with the British Commissioners, which preceded the treaty concluded by those gentlemen in the year 1806, but which was unfortunately rejected by the then President, it is evident that the interest of impressment was, in the opinion of those gentlemen, placed on a footing well calculated to secure our own seamen from the abuse against which we had complained, and against which it was our duty to protect them. This opinion was not only expressed in forcible and decisive language at the time of entering

into the arrangement, but repeated by Mr. Monroe more than a year after, in a formal letter to the Secretary of State.

Thus, sir, as we have conclusive evidence of a disposition on the part of the British Government, at one period at least, to advance considerable length toward an adjustment of this long-contested question and as we have no evidence that different principles and claims are now asserted from those then advanced, I think it fair to conclude that it is still in our power to put an end to this controversy with safety to our seamen and advantage to the nation. Instead, then, of passing this bill, and spending the blood and treasure of our countrymen in the prosecution of this war, I conceive it our duty to make an effort for the sanction of our just rights, and the restoration of peace, without a further appeal to force. It is my decided opinion that such an effort, if fairly and liberally made by this House, and the executive branch of the Government, would not fail in producing the desired effect.

This is what I ask you now to do—pass a law effectually to exclude all British subjects from the public and private maritime service of the United States; let the law be well guarded against the possibility of violation or evasion; and let us be determined rigidly to enforce it; place this law in the hands of your Executive; let him immediately appoint one or more honest, able, independent commissioners; give them ample powers to form a treaty or arrange the sole question which is now the pivot on which this war depends. Do all this; do it faithfully, and I venture to predict you will obtain a peace and secure your just rights more speedily, more effectually, and more satisfactorily to the people of this country than by all the military operations in the compass of your power.

MR. PITKIN.—On the subject of impressments, for which alone the war is now to be continued, what, let me ask, is the principle for which our Government contends? It is this, sir: that the flag of the merchant vessel shall cover all who sail under it; or, in other words, that our flag shall protect all the foreigners our merchants may think proper to employ in their service, whether naturalized or not. Before we raise immense armies, before we sacrifice any more of the lives of American citizens, let us inquire—

1st. Whether the principle, if yielded to us to-morrow, would benefit our native seamen, or would promote the real permanent interests of their country.

2d. Whether there is a probability of obtaining a recognition of this principle by a continuance of the war.

The foreigners employed in our service are those who have not been naturalized, and those who have taken the benefit of our naturalization laws. The former constitute nearly the whole: the latter class is very inconsiderable. The foreigners of the first description, of course, are in competition with our native seamen, and either exclude them from employment, or lessen the rate of their wages. In this way, then, the employment of foreign seamen is an injury to our native seamen; and, in a national point of view, it may well be questioned whether their employment subverts the permanent and solid interest of the country.

Is it not, sir, of the first importance to us, as a commercial and maritime nation, especially when we may be engaged in a war with a great naval power, to be able to have a sufficient number of native seamen employed in our service? Seamen who shall be attached by every tie to this country, and on whom we can depend for its defence in time of danger?

The situation in which we now are proves the correctness, as well as the importance, of the position. We are now at war with Great Britain. And, at the very time when this war was declared, thousands of British seamen who had not been naturalized in this country were, and they still continue, in our employment. These seamen (I am speaking, sir, of those not naturalized) are now claimed as British subjects, and, indeed, by our own laws, are now considered as alien enemies.

With respect to foreigners who have been naturalized under our laws, the question is of a more distinct nature and presents greater difficulties. We ought, undoubtedly, to fulfill all our obligations toward them. I presume, however, the number of naturalized British seamen now in our employ does not exceed two or three hundred. Shall we, sir, continue the war for these men?

I am aware, sir, that, with respect to impressment from our merchant vessels, abuses have happened; that, although the right of taking American citizens is not claimed, the British commanders have not been scrupulous whether they took British subjects or American citizens. Sir, these abuses I never can, and I never will, justify. I am satisfied, however, that they have been exaggerated.

But, sir, let me ask if we have not really intended to protect foreign seamen under our flag, if we have not been guilty of gross negligence, to say the least of it, toward our native seamen?

In 1796 Congress passed an act for the relief and protection

of American seamen. By this act the collectors of the several ports were directed, on application, to enter the names of seamen, being citizens of the United States, to grant them certificates, in a form given in the act. Have those certificates, or protections, as they are commonly called, been confined to *bona fide* American citizens? No, sir; we cannot, we ought not, to shut our eyes against facts too notorious to be concealed or denied. Under this act, made expressly for the protection of American seamen, every foreign seaman, almost, at the moment of setting his feet on our shores, has obtained a certificate from some collector that he is a citizen of the United States; and, with this certificate in his pocket, although perhaps a deserter from his own government, he enters a public or private vessel as an American seaman. Not only have these protections been thus obtained by fraud and perjury, but they have also, long since, been an object of barter; they have been bought and sold, and transferred from one to another, not only in this country, but in foreign countries. When we ourselves place no confidence in these certificates, when we know that they are thus obtained by fraud and perjury, can we expect that foreign nations will give credit to them? Instead of being a shield and protection to the real American sailor, they have become a dangerous weapon of offence.

MR. QUINCY.—When war against Great Britain was proposed at the last session there were thousands in these United States, and I confess to you I was myself among the number, who believed not one word of the matter. I put my trust in the old-fashioned notions of common sense and common prudence. That a people which had been more than twenty years at peace should enter upon hostilities against a people which had been twenty years at war; that a nation whose army and navy were little more than nominal should engage in a war with a nation possessing one of the best appointed armies and the most powerful marine on the globe; that a country to which neutrality had been a perpetual harvest should throw that great blessing away for a controversy in which nothing was to be gained and everything valuable put in jeopardy; from these, and innumerable like considerations, the idea seemed so absurd that I never once entertained it as possible. And now, after war has been declared, the whole affair seems so extraordinary and so utterly irreconcilable to any previous suggestions of wisdom and duty that I know not what to make of it or how to believe it. Even at this moment my mind is very much in the state of certain Pennsylvania Germans, of whom I have heard it asserted that

they are taught to believe, by their political leaders, and do at this moment consider the allegation, that war is at present existing between the United States and Great Britain to be a "Federal falsehood."

It was just so with respect to the invasion of Canada. I heard of it last June. I laughed at the idea, as did multitudes of others, as an attempt too absurd for serious examination. I was in this case again beset by common sense and common prudence. That the United States should precipitate itself upon the unoffending people of that neighboring colony, unmindful of all previously subsisting amities, because the parent state, three thousand miles distant, had violated some of our commercial rights; that we should march inland, to defend our ships and seamen; that with raw troops, hastily collected, miserably appointed, and destitute of discipline, we should invade a country defended by veteran forces, at least equal, in point of numbers, to the invading army; that bounty should be offered and proclamations issued, inviting the subjects of a foreign power to treason and rebellion, under the influences of a quarter of the country upon which a retort of the same nature was so obvious, so easy, and, in its consequences, so awful; in every aspect the design seemed so fraught with danger and disgrace that it appeared absolutely impossible that it should be seriously entertained. Those, however, who reasoned after this manner were, as the event proved, mistaken. The war was declared. Canada was invaded. We were in haste to plunge into these great difficulties, and we have now reason, as well as leisure enough, for regret and repentance.

The great mistake of all those who reasoned concerning the war and the invasion of Canada, and concluded that it was impossible that either should be seriously intended, resulted from this, that they never took into consideration the connection of both those events with the great election for the chief magistracy which was then pending. It never was sufficiently considered by them that plunging into war with Great Britain was among the conditions on which the support for the Presidency was made dependent. They did not understand that an invasion of Canada was to be in truth only a mode of carrying on an electioneering campaign. But since events have explained political purposes there is no difficulty in seeing the connections between projects and interests. It is now apparent to the most mole-fighted how a nation may be disgraced, and yet a cabinet attain its desired honors. All is clear. A country may be ruined in making an Administration happy.

Concerning the invasion of Canada as a means of carrying on the subsisting war, it is my duty to speak plainly and decidedly, not only because I herein express my own opinions upon the subject, but, as I conscientiously believe, the sentiments also of a very great majority of that whole section of country in which I have the happiness to reside. I say then, sir, that I consider the invasion of Canada as a means of carrying on this war as cruel, wanton, senseless, and wicked.

You will easily understand, Mr. Speaker, by this very statement of opinion, that I am not one of that class of politicians which has for so many years predominated in the world on both sides of the Atlantic. You will readily believe that I am not one of those who worship in that temple where Condorcet is the high priest and Machiavel the God. With such politicians the end always sanctifies the means; the least possible good to themselves perfectly justifies, according to their creed, the inflicting the greatest possible evil upon others. In the judgment of such men, if a corrupt ministry at three thousand miles' distance shall have done them an injury, it is an ample cause to visit with desolation a peaceable and unoffending race of men, their neighbors, who happen to be associated with that ministry by ties of mere political independence. What though these colonies be so remote from the sphere of the questions in controversy that their ruin or prosperity could have no possible influence upon the result? What though their cities offer no plunder? What though their conquest can yield no glory? In their ruin there is revenge. And revenge to such politicians is the sweetest of all morsels. With such men neither I nor the people of that section of country in which I reside hold any communion. There is between us and them no one principle of sympathy either in motive or action.

That wise, moral, reflecting people, which constitute the great mass of the population of Massachusetts—indeed, of all New England—look for the sources of their political duties nowhere else than in those fountains from which spring their moral duties. According to their estimate of human life and its obligations, both political and moral duties emanate from the nature of things, and from the essential and eternal relations which subsist among them. True it is that a state of war gives the right to seize and appropriate the property and territories of an enemy. True it is that the colonies of a foreign power are viewed, according to the law of nations, in the light of its property. But, in estimating the propriety of carrying desolation into the peaceful abodes of their neighbors, the people of

New England will not limit their contemplation to the mere circumstance of abstract right, nor ask what lawyers and jurists have written or said, as if this was conclusive upon the subject. That people are much addicted to think for themselves, and, in canvassing the propriety of such an invasion, they will consider the actual condition of those colonies, their natural relations to us, and the effect which their conquest and ruin will have, not only upon the people of those colonies, but upon themselves and their own liberties and Constitution. And above all, what I know will seem strange to some of those who hear me, they will not forget to apply to a case occurring between nations, as far as is practicable, that heaven-descended rule which the great author and founder of their religion has given them for the regulation of their conduct toward each other. They will consider it the duty of these United States to act toward those colonies as they would wish those colonies to act, in exchange of circumstances, toward these United States.

The actual condition of those colonies, and the relation in which they stood to the United States antecedent to the declaration of war, were of this nature. Those colonies had no connection with the questions in dispute between us and their parent state. They had done us no injury. They meditated none to us. Between the inhabitants of those colonies and the citizens of the United States the most friendly and mutually useful intercourse subsisted. The borderers on this, and those on the other side of the St. Lawrence, and of the boundary line, scarcely realized that they were subjects of different governments. They interchanged expressions and acts of civility. Inter-marriages took place among them. The Canadian sometimes settled in the United States; sometimes our citizens emigrated to Canada.

After the declaration of war, had they any disposition to assail us? We have the reverse expressly in evidence. They desired nothing so much as to keep perfect the then subsisting relations of amity. Would the conquest of those colonies shake the policy of the British cabinet? No man has shown it. On the contrary, nothing was more obvious than that an invasion of Canada must strengthen the ministry of Great Britain, by the excitement and sympathy which would be occasioned in the people of that country in consequence of the sufferings of the innocent inhabitants of those colonies, on account of a dispute in which they had no concern, and of which they had scarcely a knowledge. All this was anticipated—all this was frequently urged to this House, at the last and preceding ses-

"Fame is no plant that grows on mortal soil,
Nor in the glistening foil
Set off to the world, nor in broad rumor lies,
But lives and spreads aloft, by those pure eyes,
And perfect witness of all-judging Jove,
As he pronounces lastly on each deed."
May such fame as this be my country's meed!

The army which advances to the walls of Quebec, in the present condition of Canadian preparation, must be veteran. And a veteran army, under a popular leader, flushed with victory, each individual realizing that while the body remains combined he may be something, and possibly very great; that, if dissolved, he sinks into insignificance; will not be disbanded by vote. They will consult with one another, and with their beloved chieftain, upon this subject; and not trouble themselves about the advice of the old people who are knitting and weaving in the chimney corners at Washington. Let the American people receive this as an undoubted truth, which experience will verify. Whoever plants the American standard on the walls of Quebec conquers it for himself, and not for the people of the United States. Whoever lives to see that event—may my head be low in the dust before it happen!—will witness a dynasty established in that country by the sword. He will see a king or an emperor, dukedoms, and earldoms, and baronies, distributed to the officers, and knights' fees bestowed on the soldiery. Such an army will not trouble itself about geographical lines in portioning out the divisions of its new empire; and will run the parallels of its power by other steel than that of the compass. When that event happens the people of New England, if they mean to be free, must have a force equal to defend themselves against such an army. And a military force equal to this object will itself be able to enslave the country.

Mr. Speaker—when I contemplate the character and consequences of this invasion of Canada; when I reflect upon its criminality and its danger to the peace and liberty of this once happy country; I thank the great Author and Source of all virtue that through His grace that section of country in which I have the happiness to reside is, in so great a degree, free from the iniquity of this transgression. I speak it with pride, the people of that section have done what they could to vindicate themselves and their children from the burden of this sin. That whole section has risen, almost as one man, for the purpose of driving from power, by one great constitutional effort,¹ the guilty authors of this war. If they have failed it has not been

¹ The presidential election.

sions, as the necessary effect of such a measure. The event has justified those predictions. The late elections in Great Britain have terminated in the complete triumph of the friends of the British ministry.

As there was no direct advantage to be hoped from the conquest of Canada, so also there was none incidental. Plunder there was none—at least, none which would pay the cost of the conquest. Glory there was none. Could seven millions of people obtain glory by precipitating themselves upon half a million, and trampling them into the dust? A giant obtain glory by crushing a pigmy? That giant must have a pigmy's spirit who could reap, or hope, glory from such an achievement.

Show any advantage which justifies that dreadful vial of wrath which, if the intention of the American Cabinet had been fulfilled, would, at this day, have been poured out upon the heads of the Canadians. It is not owing to the tender mercies of the American Administration if the bones of the Canadians are not at this hour mingled with the ashes of their habitations. It is easy enough to make an excuse for any purpose. When a victim is destined to be immolated every hedge presents sticks for the sacrifice. The lamb who stands at the mouth of the stream will always trouble the water, if you take the account of the wolf who stands at the source of it. But show a good to us bearing any proportion to the multiplied evils proposed to be visited upon them. There is none. Never was there an invasion of any country worse than this, in point of moral principle, since the invasion of the West Indies by the Buccaneers or that of the United States by Captain Kidd. Indeed, both Kidd and the Buccaneers had more apology for their deed than the American Cabinet. They had at least the hope of plunder; but in this case there is not even the poor refuge of cupidity. We have heard great lamentations about the disgrace of our arms on the frontier. Why, sir, the disgrace of our arms on the frontier² is terrestrial glory in comparison with the disgrace of the attempt. The whole atmosphere rings with the utterance, from the other side of the House, of this word "glory"—"glory" in connection with this invasion. What glory? Is it the glory of the tiger, which lifts his jaws, all foul and bloody, from the bowels of his victim, and roars for his companions of the wood to come and witness his prowess and his spoils? Such is the glory of Genghis Khan and of Bonaparte. Be such glory far, very far, from my country. Never, never may it be accursed with such fame.

² General Hull had surrendered Detroit without resistance on August 16, 1812.

through the want of will or of exertion, but in consequence of the weakness of their political power. When in the usual course of Divine Providence, who punishes nations as well as individuals, His destroying angel shall on this account pass over this country—and sooner or later, pass it will—I may be permitted to hope that over New England his hand will be stayed. Our souls are not steeped in the blood which has been shed in this war. The spirits of the unhappy men who have been sent to an untimely audit have borne to the bar of divine justice no accusations against us.

This opinion, concerning the principles of this invasion of Canada, is not peculiar to me. I believe this sentiment is entertained, without distinction of parties, by almost all the moral sense, and nine-tenths of the intelligence, of the whole Northern section of the United States. I know that men from that quarter of the country will tell you differently. Stories of a very different kind are brought by all those who come trooping to Washington for place, appointments, and emoluments; men who will say anything to please the ear, or do anything to please the eye of majesty, for the sake of those fat contracts and gifts which it scatters; men whose fathers, brothers, and cousins are provided for by the departments; whose full-grown children are at suck at the money-distilling breasts of the treasury; the little men who sigh after great offices; those who have judgeships in hand or judgeships in promise; toads that live upon the vapor of the palace, that swallow great men's spittle at the levees; that stare and wonder at all the fine sights which they see there; and most of all wonder at themselves—how they got there to see them. These men will tell you that New England applauds this invasion.

But, Mr. Speaker, look at the elections. What is the language they speak? The present tenant of the chief magistracy rejected, by that whole section of country, with the exception of a single State unanimously. And for whom? In favor of a man² out of the circle of his own State without much influence, and personally almost unknown. In favor of a man against whom the prevailing influence in New England had previously strong political prejudices; and with whom, at the time of giving him their support, they had no political understanding; in favor of a man whose merits, whatever in other respects they might be, were brought into notice, in the first instance, chiefly so far as that election was concerned, by their opinion of the utter want of merit of the man whose reelection they opposed.

² De Witt Clinton.

I have taken some pains to learn the sentiments which prevail in New England, and particularly among its yeomanry, the pride and the hope of that country. I have conversed with men, resting on their spades and leaning on the handles of their ploughs, while they relaxed for a moment from the labor by which they support their families, and which gives such a hardihood and character to their virtues. They asked—"What do we want of Canada? We have land enough. Do we want plunder? There is not enough of that to pay the cost of getting it. Are our ocean rights there? Or is it there our seamen are held in captivity? Are new States desired? We have plenty of those already. Are they to be held as conquered territories? This will require an army there. Then, to be safe, we must have an army here. And with a standing army what security for our liberties?"

These are no fictitious reasonings. They are the suggestions I doubt not of thousands and tens of thousands of our hardy New England yeomanry; men who, when their country calls, at any wise and real exigency, will start from their native soils and throw their shields over their liberties, like the soldiers of Cadmus, "armed in complete steel"; yet men who have heard the winding of your horn to the Canada campaign with the same apathy and indifference with which they would hear in the streets the trilling of a jewsharp or the twirling of a banjo.

MR. GRUNDY.—At the last session of Congress, when every hope of obtaining justice in any other way was lost, the United States declared war, not to procure a repeal of the Orders in Council only, but to obtain redress for the unjust spoliation which had been committed on the property of American citizens, and to cause Great Britain to cease the practice of impressment. Other causes of irritation existed, but these were the prominent causes of the war. You are now asked to lay down the sword before you have obtained any of the objects of the war, except the abolition of these obnoxious orders. I request gentlemen to reflect whether this is not, in point of fact, an abandonment of the other points in dispute? Do you not, by ceasing to prosecute the war which is already commenced, declare, in the strongest possible terms, that you will not make war for the injuries which remain undressed? Can any man persuade himself that you will obtain that by negotiation for which you have determined you will not fight! and that, too, from a nation at all times disposed to depress this growing country? That politician must have a very imperfect knowledge of the considerations which influence all cabinets who does

not know that the strongest inducement which can be brought to operate in favor of an injured nation is the apprehension of retaliation, or fear of war, entertained by the other party.

If you now say that you will not prosecute the war, the enemy must view it as a decision pronounced by this Government that war shall not be waged by the American nation for the impressment of her citizens, or for depredations committed on commerce. It might as well be said in plain, intelligible language that the ocean is to be abandoned by the people of the United States, except so far as depends on the will of Great Britain. If both the property and liberty of American citizens on the ocean are subject to her disposal, you cease to possess the rights of a sovereign and independent nation. For my own part, if we have the right to claim security for the liberty and property of our citizens against that nation, of which no man dare express a doubt, I am far from asserting it until the object is attained, or the ability of this nation fails; of the latter I have no fear.

It is pretended that this Government is not desirous of peace, and that this is a war of conquest and ambition. I beg gentlemen to refrain from making statements which they themselves do not believe. After the declaration of war, what has been the conduct of the Executive? Through Mr. Russell, our *chargé des affaires* at London, they have offered to conclude an armistice on terms which would remove every pretext for complaint on the part of Great Britain. He proposed that this country should exclude from her service British seamen. It is true that Lord Castlereagh urged Mr. Russell's want of powers, and stated that the American Congress alone could make the necessary provisions on that subject. If, however, sincerity had existed with the British ministry, a temporary arrangement could have been made by which hostilities would have been suspended until the legitimate authorities of this country could have expressed an opinion.

MR. CLAY.—If gentlemen would only reserve for their own government half the sensibility which is indulged for that of Great Britain, they would find much less to condemn. Restriction after restriction has been tried; negotiation has been resorted to until longer to have negotiated would have been disgraceful. While these peaceful experiments are undergoing a trial, what is the conduct of the opposition? They are the champions of war; the proud, the spirited, the sole repository of the nation's honor; the exclusive men of vigor and energy. The Administration, on the contrary, is weak, feeble, and pusillani-

mous—"incapable of being kicked into a war." The maxim, "not a cent for tribute, millions for defence," is loudly proclaimed. Is the Administration for negotiation? The Opposition is tired, sick, disgusted with negotiation. They want to draw the sword and avenge the nation's wrongs. When, at length, foreign nations, perhaps emboldened by the very opposition here made, refused to listen to the amicable appeals made, and repeated and reiterated by the Administration, to their justice and to their interests; when, in fact, war with one of them became identified with our independence and our sovereignty, and it was no longer possible to abstain from it, behold the opposition become the friends of peace and of commerce. They tell you of the calamities of war; its tragical events; the squandering away of your resources; the waste of the public treasure, and the spilling of innocent blood. They tell you that honor is an illusion! Now we see them exhibiting the terrific forms of the roaring king of the forest! Now the meekness and humility of the lamb! They are for war, and no restrictions, when the Administration is for peace; they are for peace and restrictions when the Administration is for war. You find them, sir, tacking with every gale, displaying the colors of every party, and of all nations, steady only in one unalterable purpose: to steer, if possible, into the haven of power.

During all this time the parasites of opposition do not fail by cunning sarcasm or sly innuendo to throw out the idea of French influence, which is known to be false; which ought to be met in one manner only, and that is by the lie direct. The Administration of this country devoted to foreign influence! The Administration of this country subservient to France! Great God! how is it so influenced? By what ligament, on what basis, on what possible foundation, does it rest? Is it on similarity of language? No! we speak different tongues; we speak the English language. On the resemblance of our laws! No! the sources of our jurisprudence spring from another and a different country. On commercial intercourse? No! we have comparatively none with France. Is it from the correspondence in the genius of the two governments? No! here alone is the liberty of man secure from the inexorable despotism which everywhere else tramples it under foot. Where, then, is the ground of such an influence? But, sir, I am insulting you by arguing on such a subject. Yet, preposterous and ridiculous as the insinuation is, it is propagated with so much industry that there are persons found foolish and credulous enough to believe it. You will, no doubt, think it incredible (but I have nevertheless been told the

fact) that an honorable member of this House, now in my eye, recently lost his election by the circulation of a story in his district that he was the first cousin of the Emperor Napoleon. The proof of the charge was rested on a statement of facts which was undoubtedly true. The gentleman in question it was alleged had married a connection of the lady of the President of the United States, who was the intimate friend of Thomas Jefferson, late President of the United States, who, some years ago, was in the habit of wearing red French breeches. Now, taking these premises as established, you, Mr. Chairman, are too good a logician not to see that the conclusion necessarily followed!

Throughout the period he had been speaking of the opposition had been distinguished, amid all its veerings and changes, by another inflexible feature—the application of every vile epithet, which our rich language affords, to Bonaparte. He has been compared to every hideous monster and beast, from that of the *Revelations* to the most insignificant quadruped. He has been called the scourge of mankind, the destroyer of Europe, the great robber, the infidel, and—Heaven knows by what other names. Really, gentlemen remind me of an obscure lady in a city, not very far off, who also took it into her head, in conversation with an accomplished French gentleman, to talk of the affairs of Europe. She, too, spoke of the destruction of the balance of power, stormed and raged about the insatiable ambition of the emperor; called him the curse of mankind—the destroyer of Europe. The Frenchman listened to her with perfect patience, and, when she had ceased, said to her, with ineffable politeness: "Madam, it would give my master, the emperor, infinite pain if he knew how hardly you thought of him."

Sir, gentlemen appear to me to forget that they stand on American soil; that they are not in the British House of Commons, but in the Chamber of the House of Representatives of the United States; that we have nothing to do with the affairs of Europe—the partition of territory and sovereignty there—except in so far as these things affect the interests of our own country. Gentlemen transform themselves into the Burkes, Chathams, and Pitts, of another country, and forgetting, from honest zeal, the interests of America, engage, with European sensibility, in the discussion of European interests. If gentlemen ask me if I do not view with regret and sorrow the concentration of such vast power in the hands of Bonaparte, I reply that I do. I regret to see the Emperor of China holding such immense sway over the fortunes of millions of our species. I

regret to see Great Britain possessing so uncontrolled a command over all the waters of our globe. And if I had the ability to distribute among the nations of Europe their several portions of power and of sovereignty, I would say that Holland should be resuscitated and given the weight she enjoyed in the days of her De Witts. I would confine France within her natural boundaries—the Alps, the Pyrenees, and the Rhine—and make her a secondary naval power only. I would abridge the British maritime power, raise Prussia and Austria to first-rate powers, and preserve the integrity of the Empire of Russia. But these are speculations. I look at the political transactions of Europe, with the single exception of their possible bearing upon us, as I do at the history of other countries or other times. I do not survey them with half the interest that I do the movements in South America. Our political relation is much less important than it is supposed to be. I have no fears of French or English subjugation. If we are united we are too powerful for the mightiest nation in Europe, or all Europe combined. If we are separated, and torn asunder, we shall become an easy prey to the weakest of them. In the latter dreadful contingency our country will not be worth preserving.

In one respect there is a remarkable difference between Administration and the Opposition—it is in a sacred regard for personal liberty. When out of power, my political friends opposed the violation of the freedom of the press, in the sedition law; they opposed the more insidious attack upon the freedom of the person, under the imposing garb of an alien law. The party now in opposition, then in power, passed those two laws. True to our principles, we are now struggling for the liberty of our seamen against foreign oppression. True to theirs, they oppose the war for this object. They have indeed lately affected tender solicitude for the liberties of the people, and talk of the danger of standing armies, and the burden of taxes. But it is evident to you, Mr. Chairman, that they speak in a foreign idiom. Their brogue betrays that it is not their vernacular tongue. What! the opposition, who in 1798 and 1799 could raise a useless army to fight an enemy three thousand miles distant from us, alarmed at the existence of one raised for a known specified object—the attack of the adjoining provinces of the enemy? The gentleman from Massachusetts [Mr. Quincy], who assisted by his vote to raise the army of twenty-five thousand, alarmed at the danger of our liberties from this very army!

I mean to speak of another subject which I never think of

but with the most awful considerations. The gentleman from Massachusetts [Mr. Quincy] has entertained us with cabinet plots, presidential plots, which are conjured up in the gentleman's own perturbed imagination. I wish, sir, that another plot of a much more serious kind—a plot that aims at the dismemberment of our Union—had only the same imaginary existence. But no man who had paid any attention to the tone of certain prints, and to transactions in a particular quarter of



PRESIDENT MADISON AND HIS SNAPPING TURTLE
"To the Grave Go Sham Protectors of 'Free Trade and Sailors' Rights'—
and All the People Say Amen!"

From the collection of the New York Public Library

the Union for several years past, can doubt the existence of such a plot. The project is not brought forward openly, with a direct avowal of the intention. No, the stock of good sense and patriotism in that portion of the country is too great to be undisguisedly encountered. It is assailed from the masked batteries of friendship to peace and commerce on the one side, and by the groundless imputation of opposite propensities on the other. The affections of the people are to be gradually undermined. The project is suggested or withdrawn; the diabolical parties in this criminal tragedy make their appearance or exit as the audience to whom they address themselves are silent, applaud, or hiss.

The war was declared because Great Britain arrogated to

herself the pretension of regulating foreign trade, under the delusive name of retaliatory Orders in Council—a pretension by which she undertook to proclaim to American enterprise, "Thus far shalt thou go, and no farther." Orders which she refused to revoke after the alleged cause of their enactment had ceased; because she persisted in the act of impressing American seamen; because she had instigated the Indians to commit hostilities against us; and because she refused indemnity for her past injuries upon our commerce. I throw out of the question other wrongs. The war in fact was announced, on our part, to meet the war which she was waging on her part. So undeniable were the causes of the war; so powerfully did they address themselves to the feelings of the whole American people, that when the bill was pending before this House gentlemen in the opposition, although provoked to debate, would not, or could not, utter one syllable against it.

I am far from acknowledging that had the Orders in Council been repealed, as they have been, before the war was declared, the declaration would have been prevented. In a body so numerous as this, from which the declaration emanated, it is impossible to say with any degree of certainty what would have been the effect of such a repeal. Each member must answer for himself. I have no hesitation, then, in saying that I have always considered the impressment of American seamen as much the most serious aggression. But, sir, how have those Orders at last been repealed? Great Britain, it is true, has intimated a willingness to suspend their practical operation, but she still arrogates to herself the right to revive them upon certain contingencies, of which she constitutes herself the sole judge. She waives the temporary use of the rod, but she suspends it *in terrorem* over our heads. Supposing it was conceded to gentlemen than such a repeal of the Orders in Council as took place on the 23d of June last, exceptionable as it is, being known before the war, would have prevented the war, does it follow that it ought to induce us to lay down our arms without the redress of any other injury? Does it follow, in all cases, that that which would have prevented the war in the first instance should terminate the war? By no means. It requires a great struggle for a nation prone to peace as this is to burst through its habits and encounter the difficulties of war. Such a nation ought but seldom to go to war. When it does it should be for clear and essential rights alone, and it should firmly resolve to extort, at all hazards, their recognition. The war of the Revolution is an example of a war begun for one object and prosecuted for an-

other. It was waged in its commencement against the right asserted by the parent country to tax the colonies. Then no one thought of absolute independence. The idea of independence was repelled. But the British Government would have relinquished the principle of taxation. The founders of our liberties saw, however, that there was no security short of independence, and they achieved our independence. When nations are engaged in war those rights in controversy, which are acknowledged by the treaty of peace, are abandoned. And who is prepared to say that American seamen shall be surrendered, the victims to the British principle of impressment? And, sir, what is this principle? She contends that she has a right to the services of her own subjects: that, in the exercise of this right, she may lawfully impress them, even although she finds them in our vessels, upon the high seas, without her jurisdiction. Now, I deny that she has any right, without her jurisdiction, to come on board our vessels on the high seas, for any other purpose but in pursuit of enemies, or their goods, or goods contraband of war. But she further contends that her subjects cannot renounce their allegiance to her and contract a new obligation to other sovereigns. I do not mean to go into the general question of the right of expatriation. If, as is contended, all nations deny it, all nations at the same time admit and practice the right of naturalization. Great Britain, in the very case of foreign seamen, imposes perhaps fewer restraints upon naturalization than any other nation. Then, if subjects cannot break their original allegiance, they may, according to universal usage, contract a new allegiance. What is the effect of this double obligation? Undoubtedly, that the sovereign having possession of the subject would have a right to the services of the subject. If he return within the jurisdiction of his primitive sovereign he may resume his right to his services, of which the subject by his own act could not divest himself. But his primitive sovereign can have no right to go in quest of him, out of his own jurisdiction into the jurisdiction of another sovereign, or upon the high seas, where there exists either no jurisdiction, or it belongs to the nation owning the ship navigating them. But, sir, this discussion is altogether useless. It is not to the British principle, objectionable as it is, that we are alone to look; it is to her practice—no matter what guise she puts on. It is in vain to assert the inviolability of the obligation of allegiance. It is in vain to set up the plea of necessity, and to allege that she cannot exist without the impressment of her seamen. The truth is, she comes, by her press gangs, on board of our vessels, seizes

our native seamen, as well as naturalized, and drags them into her service. It is the case, then, of the assertion of an erroneous principle, and a practice not conformable to the principle—a principle which, if it were theoretically right, must be forever practically wrong. If Great Britain desires a mark by which she can know her own subjects, let her give them an ear mark. The colors that float from the mast head should be the credentials of our seamen. There is no safety to us, and the gentlemen have shown it, but in the rule that all who sail under the flag (not being enemies) are protected by the flag. It is impossible that this country should ever abandon the gallant tars who have won for us such splendid trophies. Let me suppose that the Genius of Columbia should visit one of them in his oppressor's prison and attempt to reconcile him to his wretched condition. She would say to him, in the language of the gentlemen on the other side, "Great Britain intends you no harm; she did not mean to impress you, but one of her own subjects; having taken you by mistake, I will remonstrate, and try to prevail upon her by peaceable means to release you, but I cannot, my son, fight for you." If he did not consider this mockery he would address her judgment, and say, "You owe me, my country, protection; I owe you in return obedience. I am no British subject, I am a native of old Massachusetts, where live my aged father, my wife, and my children. I have faithfully discharged my duty. Will you refuse to do yours?" Appealing to her passions, he would continue, "I lost this eye in fighting under Truxton with the *Insurgent*; I got this scar before Tripoli; I broke this leg on board the *Constitution* when the *Guerrière* struck."

I will not imagine the dreadful catastrophe to which he would be driven by an abandonment of him to his oppressor. It will not be, it cannot be, that his country will refuse him protection!

The honorable gentleman from North Carolina [Mr. Pearson] supposes that if Congress would pass a law prohibiting the employment of British seamen in our service, upon condition of a like prohibition on their part, and repeal the act of non-importation, peace would immediately follow. Sir, I have no doubt if such a law were passed, with all the requisite solemnities, and the repeal to take place, Lord Castlereagh would laugh at our simplicity. No, sir, Administration has erred in the steps which it has taken to restore peace, but its error has been not in doing too little, but in betraying too great a solicitude for that event. An honorable peace is attainable only by an efficient war. My plan would be to call out the ample re-

sources of the country, give them a judicious direction, prosecute the war with the utmost vigor, strike wherever we can reach the enemy, at sea or on land, and negotiate the terms of a peace at Quebec or Halifax. We are told that England is a proud and lofty nation that, disdaining to wait for danger, meets it half-way. Haughty as she is, we once triumphed over her, and if we do not listen to the counsels of timidity and despair we shall again prevail. In such a cause, with the aid of Providence, we must come out crowned with success; but, if we fail, let us fail like men—lash ourselves to our gallant tars, and expire together in one common struggle, fighting for "seamen's rights and free trade."

Mr. Randolph rose, apparently laboring under the effects of a serious indisposition, and addressed the Chair.

The war in Europe brought to this country, among other birds of passage, a ravenous flock of neutralized carriers, which interposed the flag of neutrality, not only between the property, but even between the persons of the two belligerent powers; and it was their clamor principally, aided by the representations of those of our merchants who saw and wished to participate in the gains of such a commerce, that the first step was taken in that policy of restriction which it was then foreseen would lead to the disastrous condition in which we now find ourselves. Yes, it was then foreseen and foretold. What was then prophesied is now history. It is so. "You," said the prophet, "are prospering beyond all human example. You, favorites of Almighty God, while all the rest of the world are scourged, and ravaged, and desolated by war, are about to enter into a policy called *preventive* of war; a policy which comes into this House in the garb of peace, but which must end in war." And in war it has ended. Yes, sir, we have been tortured, fretted, goaded, until at last, like some poor man driven from his family by discord at home, who says to himself, "anything, even exile, is better than this," we have said that we will take war; we will take *anything* for a change. And, when war came, what said the people? They said, "anything for a change!"

Regardless of every consequence, we went into war with England as an inconsiderate couple go into matrimony, without considering whether they have the means of sustaining their own existence, much less that of any unfortunate progeny that should happen to be born of them. The sacrifice was made. The

blood of Christians enjoying the privileges of jury trial, of the writ of *habeas corpus*, of the freedom of conscience, of the blessings of civil liberty, citizens of the last republic that ambition has left upon the face of a desolate earth—the blood of such a people was poured out as an atonement to the Moloch of France. The Juggernaut of India is said to smile when it sees the blood flow from the human sacrifice which its worship exacts; the Emperor of France might now smile upon us. But, no, sir, our miserable offering is spurned. The French monarch turns his nose and his eyes another way. He snuffs on the plains of Moscow a thousand hecatombs, waiting to be sacrificed on the shrine of his ambition; and the city of the Czars, the largest in the world, is to be at once the altar and the fire of sacrifice to his miserable ambition. And what injury has the Emperor of Russia done to him? For what was he contending? For national existence; for a bare existence; for himself and the people who are subject to his sway. And what, sir, are you doing? Virtually fighting the battles of his foes; surrendering yourself to the views of his adversary, without a plea—without anything to justify your becoming the victims of his blasting ambition.

Yes, sir, after having for years attempted to drive us by menace into war with England, when he has seen us fairly embarked in it, and the champions of human rights bleeding in his cause, the ruler of France has turned with contempt from your reclamations. Is there anything yet wanting to fill up the full measure of injustice you have sustained? Gentlemen on all sides are obliged to admit that the provocation which we have received from France is ample; that the cup of it is overflowing. And yet, what is our situation in relation to that destroyer of mankind—him who, devising death to all that live, sits like a cormorant on the tree of life; who cannot be glutted, nor tired, with human carnage; the impersonation of death; himself an incarnate death? At this moment, when it is well known that it would not require one additional man in the army or navy to make good, in the eye of nations, your character as an independent and high-spirited people, you are prostrate at the feet of your's and the world's undoer.

A word, now, on the subject of impressment. Our foreign trade had grown beyond the capacity of either our tonnage or seamen to manage. Our mercantile marine was an infant Hercules; but it was overloaded beyond its strength: the crop was too abundant to be gathered by our hands alone. The consequence was, and a natural one, too, that not only the capitalists flocked into our country from abroad to share in our growing

commerce, but the policy also of our Government was adapted to it, and a law was passed to enable us to avail ourselves of the services of British seamen and seamen of other countries. And, in doing this, we availed ourselves of the pretext—which, as long as the countries to which they belonged winked at it, was fair for us to use—of taking these British seamen for Americans. It was in 1796 that commenced the act to which reference has been made, and that system of "protections," as they were called, the very mention of which, at this day, causes a burst of honest indignation in the breast of citizens whose situation enables them to ascertain their true character. If these "protections," so termed, have not been forged all over Europe, it is only for the reason that the notes of a certain bank of which I have heard have not been forged, viz: that, the bank being broke, its notes were so worthless that people would not even steal them. The "protections" are attainable by everybody; by men of all ages, countries, and descriptions. They are a mere farce. The issuing of them has gone far to disgrace the character of the country, and has brought into question and jeopardy the rights of real American citizens. Sir, there is a wide difference between the character of American seamen and seamen of every other country on earth. The American seaman has a home on the land, a domicile, a wife and children, to whom he is attached, to whom he is in the habit of returning after his voyages; with whom he spends, sometimes, a long vacation from the toils of maritime life. It is not so with the seamen of other countries. For the protection of men of the first description I am disposed, if necessary, to use the force of the country, but for no other. I know, indeed, that some gentlemen who have spoken much on the subject of the principle of impressment will tell you that the right to take from a neutral vessel one seaman, if carried to its extent, involves a right to take any or all seamen. Why, sir, in like manner, it might be argued that the taking illegally of one vessel at sea involves the right to take every vessel. And yet, sir, who ever heard of two nations *going to war* about a single case of capture, though admitted not to be justified by the laws? Such a case never did and never will occur.

Of one thing we are certain: it rests upon no doubtful ground: that Great Britain, rather than surrender the right of impressing her own seamen, will nail her colors to the mast, and go down with them. And she is right, because, when she does surrender it, she is Samson shorn of his strength: the sinews of her power are cut. The right of Great Britain to take her own

seamen from your merchant vessels (if it be a right) is one which she has exercised ever since you were a people, wherever occasions for its exercise have occurred. Will you not only go to war, but wage a *bellum ad internecinum* for it? Will you wage an endless war of extermination for this right which, you have known for two and twenty years of your national existence, she will not relinquish?

But it may be said that the right of search cannot be endured; that the protection of our flag must be held inviolate; that if a search of our ships be permitted for British seamen they may actually take American seamen. Sir, there is no doubt of the fact that by mistake, sometimes perhaps by wilful misconduct, on the part of officers engaged in the search, such a thing may happen. But, should we not think it exceedingly strange that the misconduct of an officer of the American Government, in one case in twenty if you will, should be a cause of war for any nation against us? It is one of those cases which does occur, and will forever occur, to a neutral power, whenever a general war is lighted up. It is one of the prices which this country has to pay for its rapid accession of wealth, such as is unheard of in the annals of any other nation but our own. And this, sir, is the state of things in which we have undertaken, in children's language, to quarrel with our bread and butter; and to identify ourselves with one of the belligerents in a war in which we have no proper concern.

The right of search has been acknowledged by all nations. The President of the United States and his Secretary of State, as great masters of the law of nations, will be among the first to acknowledge it; they have acknowledged it, and by our treaties with foreign powers this country has heretofore acknowledged it, so far as concerns the right to search for contraband goods and enemy's property. There is no doubt that, under the color of the right of search—for I am advocating its lawful purposes only—abuses have been committed on neutrals; and as long as men exist it will be so. The liability to abuse of this right is the price which neutrals pay for the advantages which they derive from their neutrality; and I should like to know whether it would be for me to join in the contest in which these belligerents are engaged for the recovery of my *neutral* rights. Where are those rights when great maritime powers become belligerent? There are neutral rights undoubtedly, but there are also neutral duties. And shall a neutral nation, a nation which has in that character prospered and flourished more than any people on the face of the globe.

necticut and Massachusetts had refused to contribute their quotas of militia for the service of the United States, characterizing the requisitions of Congress as unconstitutional.

In reference to this refusal President Madison, in his message to Congress on November 4, 1812, said:

This refusal is founded on a *novel and unfortunate exposition* of the provisions of the Constitution relating to the militia. It is obvious that if the authority of the United States to call into service and *command the militia* for the public defence can be thus frustrated, even in a state of declared war, and of course *under apprehensions of invasion preceding war*, they are not one nation for the purpose most of all requiring it; and that the public safety may have no other resource than in those large and permanent military establishments which are forbidden by the principles of our free Government, and against the necessity of which the militia were meant to be a constitutional bulwark.

Among the many New England statesmen antagonistic to the war was Daniel Webster, elected to the House of Representatives from New Hampshire in 1812. Before the close of his term he assumed the position of leader of the anti-war faction.

On January 14, 1814, in the course of a debate on a bill for the encouragement of enlistments, he attacked the Administration for its un-American policy of conducting an *offensive* war (*i. e.*, for the conquest of Canada) instead of a *defensive* war (*i. e.*, on the sea). He was replied to on the following day by John C. Calhoun of South Carolina.

OFFENSIVE VS. DEFENSIVE WAR

HOUSE OF REPRESENTATIVES, JANUARY 14-15, 1814

MR. WEBSTER.—You have prosecuted this invasion [of Canada] for two campaigns. They have cost you vastly more, upon the average, than the campaigns of the Revolutionary war. The project has already cost the American people nearly half as much as the whole price paid for independence. The result is before us. Who does not see and feel that this result disgraces us? Who does not see in what estimation our martial prowess

sacrifice those rights and those advantages, and resort to war against one of those belligerents—and for what? For a point of honor! Yet, while in this Quixotic spirit, we have gone to war with England; although we have been robbed, reviled, contemned throughout by the Emperor of France, we can see no cause of war with him!

What shall we say of the *French* doctrine in relation to this subject of impressment? That all who spoke the English language should be treated as Englishmen, unless they could give proof to the contrary; the *onus probandi* lying on those who spoke the language of Locke, and Newton, and Milton, and Shakespeare. Yes, sir, while the English Government establishes no such doctrine, the French Government acts upon the principle that speaking the English language is *prima facie* evidence of your being a British subject, and would justify their treating you as an enemy, the burden of the proof to the contrary being thrown upon yourself.

Is it fitting that the only two nations among whom the worship of the true God has been maintained with anything like truth and freedom from corruption; that the only two nations among whom this worship has been preserved unstained shall be the two now arrayed against each other in hostile arms in a conflict in which, let who will conquer in the fight, his success in one point, if that be an object, will have been attained: so much of human life, liberty, and happiness will have perished in the affray—in the service of this scourge with which it has pleased God, in his wisdom and justice, not in his mercy, to inflict mankind? Is it fitting that those hands which unite in giving to idolaters and to the heathen the Word of God, the Book of Life—that those hands, and those alone, should be thus drenched in each other's blood? Will you unite as a Christian with your Protestant brother across the Atlantic for these noble purposes, and then plunge the dagger into his breast with whom you are associated in a cause so holy—one so infinitely transcending the low, the little, the dirty business we are called upon here to transact? I hope that the sacrifice may be stopped. Let us join in the worship of the true and living God, instead of spilling the blood of His people on the abominable altar of the French Moloch.

NEW ENGLAND'S OPPOSITION TO THE WAR

From the first outbreak of hostilities with Great Britain the center of opposition to the war had been New England. Indeed, the State governments of Con-

must be by this time holden by the enemy and by the world? Administration has made its master effort to subdue a province three thousand miles removed from the mother country; scarcely equal in natural strength to the least of the States of this confederacy, and defended by external aid to a limited extent. It has persisted two campaigns, and it has failed. Let the responsibility rest where it ought. The world will not ascribe the issue to want of spirit or patriotism in the American people. The possession of those qualities, in high and honorable degrees, they have heretofore illustriously evinced, and spread out proof on the record of their Revolution. They will be still true to their character, in any cause which they feel to be their own. In all causes they will defend themselves. The enemy, as we have seen, can make no permanent stand in any populous part of the country. Its citizens will drive back his forces to the line. But at that line, at the point where defence ceases and invasion begins, they stop. They do not pass it because they do not choose to pass it. Offering no serious obstacle to their actual power, it rises, like a Chinese wall, against their sentiments and their feelings.

It is natural, sir, such being my opinion, on the present state of things, that I should be asked what, in my judgment, ought to be done. In the first place, then, I answer, withdraw your invading armies and follow counsels which the national sentiment will support. In the next place, abandon the system of commercial restriction. That system is equally ruinous to the interests and obnoxious to the feelings of whole sections and whole States. They believe you have no constitutional right to establish such systems. They protest to you that such is not, and never was, their understanding of your powers. They are sincere in this opinion, and it is of infinite moment that you duly respect that opinion, although you may deem it to be erroneous. These people, sir, resisted Great Britain, because her minister, under pretence of regulating trade, attempted to put his hand into their pockets and take their money. There is that, sir, which they then valued, and which they still value, more than money. That pretence of regulating trade they believed to be a mere cover for tyranny and oppression. The present embargo, which does not vex and harass and embarrass their commerce, but annihilates it, is also laid by color of a power to regulate trade. For if it be not laid by virtue of this power, it is laid by virtue of no power. It is not wonderful, sir, if this should be viewed by them as a state of things not contemplated when they came into the national compact.

The humble aid which it would be in my power to render to measures of Government shall be given cheerfully if Government will pursue measures which I can conscientiously support. Badly as I think of the original grounds of the war, as well as of the manner in which it has been hitherto conducted, if even now, failing in an honest and sincere attempt to procure just and honorable peace, it will return to measures of defence and protection, such as reason and common sense and the public opinion all call for, my vote shall not be withheld from the means. Give up your futile projects of invasion. Extinguish the fires that blaze on your inland frontiers. Establish perfect safety and defence there, by adequate force. Let every man that sleeps on your soil sleep in security. Stop the blood that flows from the veins of unarmed yeomanry and women and children. Give to the living time to bury and lament their dead, in the quietness of private sorrow.

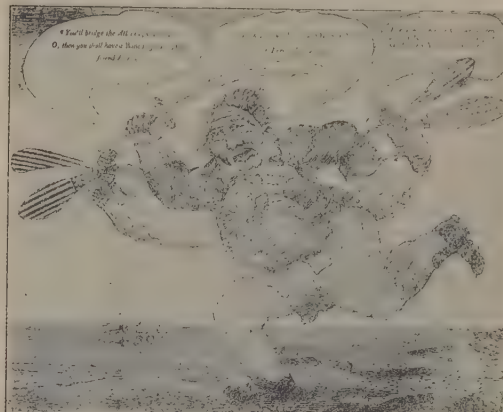
Having performed this work of beneficence and mercy on your inland border, turn, and look with the eye of justice and compassion on your vast population along the coast. Unclench the iron grasp of your embargo. Take measures for that end before another sun sets upon you. With all the war of the enemy on your commerce, if you would cease to war on it yourselves you would still have some commerce. That commerce would give you some revenue. Apply that revenue to the augmentation of your navy. That navy, in turn, will protect your commerce. Let it no longer be said that not one ship of force, built by your hands since the war, yet floats upon the ocean. Turn the current of your efforts into the channel which national sentiment has already worn broad and deep to receive it. A naval force, competent to defend your coast against considerable armaments, to convoy your trade, and perhaps raise the blockade of your rivers, is not a chimera. It may be realized. If, then, the war must be continued, go to the ocean. If you are seriously contending for maritime rights go to the theater where alone those rights can be defended. Thither every indication of your fortune points you. There the united wishes and exertions of the nation will go with you. Even our party divisions, acrimonious as they are, cease at the water's edge. They are lost in attachment to national character on the element where that character is made respectable. In protecting naval interests by naval means you will arm yourselves with the whole power of national sentiment, and may command the whole abundance of the national resources. In time you may enable yourselves to redress injuries, in the place where they may be offered, and,

tween an offensive and defensive war is of the moral kind; and the American sense of justice accounts for their feelings. Their exemption from ambition and love of justice preserve them from the former, while their manly spirit and good sense will always make them cheerfully meet the other whenever it becomes necessary. What, then, is the character of the war in which we are now engaged? Was it dictated by avarice or love of conquest? I appeal to our opponents for a decision. They have already decided. When the resolutions of the gentleman from New Hampshire were under discussion, at the last session, it was repeated till the ear was fatigued by every one on that side of the House who took any part in the debate that if the repeal of the Berlin and Milan decrees had been communicated in time to the British Government the Orders in Council would have been repealed; and, had the last even happened, the war would not have been declared. They then have acknowledged that the Orders in Council, and not the conquest of Canada, as they now pretend, was the cause of the war; and it would be idle to inquire whether to resist them is in its nature offensive or defensive. It would be to inquire whether they are or are not an injury to our commerce; a point I have never heard denied by the most obstinate debater. It would be equally so to examine whether the cause of continuing the war, to prevent our seamen from impressment, is of an offensive or defensive character.

Very few have the hardihood to deny that it is an injury of the most serious kind, both as it regards the Government and the unhappy subjects of its operations. It involves the most sacred obligation which can bind the body politic to the citizen; I mean that of protection, due alike to all; to the beggar in the street—much more, if susceptible of degrees, to our sailors, that class of the community who have added so much to the wealth and renown of this country. Having thus established the character of the war in its origin and continuance, I would lay down as a rule not less clear that a defensive war does not become offensive by being carried beyond the limits of our territory. The motive and cause will ever give character; all the rest are mere essential incidents. When once declared, the only question, even in a defensive war, is how can it be carried on with the greatest effect. The reverse of this involves the most glaring absurdity. It supposes that we had determined to compel our enemy to respect our rights; and at the same time voluntarily renounced what is acknowledged to be the best and most effectual mode of producing that effect. On this point, as well as the

if need be, to accompany your own flag throughout the world with the protection of your own cannon.

Mr. CALHOUN.—Gentlemen contend that this is not a defensive but an offensive war; and under that character undertake its denunciation, without ever condescending to state what in their opinion constitutes the characteristic difference between them. The people of this country have an aversion to an of-



JOHN BULL STUNG TO AGONY BY THE "WASP" AND "HORNET"
From the collection of the New York Historical Society

fensive war; which I suppose interprets the meaning of the vehemence of the Opposition on this subject; while they readily acknowledge the possible necessity and justice of one that is defensive. It is therefore proper that our ideas on this point should be fixed with precision and certainty. I would lay it down as a universal criterion that a war is offensive or defensive, not by the *mode* of carrying it on, which is an immaterial circumstance, but by the *motive* and *cause* which led to it. If it has its origin in ambition, avarice, or any of the like passions, then is it offensive; but if, on the contrary, to repel insult, injury, or oppression, it is of an opposite character, and is defensive. In the view which I have presented the difference be-

cause of the war, the opinion of our opponents may be arrayed against themselves. What have they advised as to the mode of carrying on the war? Withdraw your troops from Canada, reduce your army, and limit your operations to the ocean. What! to the ocean? Carry the war beyond our own territory! make it offensive! The gentlemen surely do not intend to support an offensive war. To use their own language, it is too immoral for a virtuous and religious people. It is then admitted that it does not cease to be offensive by its being waged at sea; how, then, can the carrying it into Canada change its character?

It now remains to consider the defence which gentlemen have made for their opposition to the war and the policy of their country; a subject which I conceive is of the greatest importance, not only as affecting the result of the present contest, but the lasting peace and prosperity of our country. They assume as a fact that opposition is in its nature harmless; and that the calamities which have afflicted free States have originated in the blunders and folly of the Government, and not from the perverseness of opposition. Opposition simply implies contrariety of opinion; and, when used in the abstract, it admits neither censure nor praise. It cannot be said to be either good or bad; useful or pernicious. It is not from itself, but from the connected circumstances, that it derives its character. When it is simply the result of that diversity in the structure of our intellect which conduces to different conclusions on the same subject, and is confined within those bounds which love of country and political honesty prescribe, it is one of the most useful guardians of liberty. It excites gentle collision, prompts to due vigilance, a quality so indispensable, and at the same time so opposite to our nature, and results in the establishment of an enlightened policy and useful laws. Such are its qualities when united with patriotism and moderation. But in many instances it assumes a far different character. Combined with faction and ambition it bursts those limits within which it may usefully act, and becomes the first of political evils. If, sir, the gentlemen on the other side of the House intend to include this last species of opposition, as I am warranted to infer from their expression, when they spoke of its harmless character, then have they made an assertion in direct contradiction to reason, experience, and all history. A factious opposition is compounded of such elements that no reflecting man will ever consider it as harmless. The fiercest and most ungovernable passions of our nature, ambition, pride, rivalry, and hate, enter into its dangerous composition—made still more so by its power of delusion, by which its projects

against government are covered in most instances, even to the eyes of its victims, by the specious show of patriotism. Thus constituted, who can estimate its force? Where can benevolent and social feelings be found sufficiently strong to counteract its progress? Is love of country? Alas! the attachment to a party becomes stronger than that to our country. A factious opposition sickens at the sight of the prosperity and success of the country. Common adversity is its life; general prosperity its death. Nor is it only over our virtuous sentiments that this bane of freedom triumphs. Even the selfish passions of our nature, planted in our bosom for our individual safety, afford no obstacle to its progress. It is this opposition which gentlemen call harmless, and treat with so much respect; it is this moral treason which has in all ages and countries ever proved the most deadly foe to freedom.

Nor is it then only dangerous, when it breaks forth into open treason and rebellion. Without resort to violence it is capable in a thousand ways to counteract and deaden all the motions of Government; to render its policy wavering, and to compel it to submit to schemes of aggrandizement on the part of other governments; or, if resistance is determined on, to render it feeble and ineffectual. Do gentlemen ask for instances? Unhappily, they are but too numerous. Where shall they not be found? Admired and lamented republics of antiquity!—Athens, Carthage, and Rome—you are the victims and witnesses of the fell spirit of factious opposition. Fatal fields of Zama and Cheroinea! you can attest its destructive cruelty. What is the history of Polybius, and that of the other historians of the free states of antiquity? What the political speeches of Cicero, and the orations of Demosthenes, those models of eloquence and wisdom, but volumes of evidence, attesting that an opposition founded in faction, unrestrained by moderation and a regard to the general welfare, is the most dangerous of political evils. Nor does antiquity alone testify. The history of modern times is pregnant with examples. What, I would ask, have become of the free states of modern Italy, which once flourished in wealth and power—Florence, Genoa, Venice, and many others? What of the United Provinces and Switzerland? Gone; perished under the deadly feuds of opposition. Even England, with her deep-rooted and powerful executive, has not been free from its pernicious effect. What arrested the war of Marlborough, when France was so humbled that, had it been continued, Europe might have been free from the danger which she has experienced from that power? What stayed the conquering hand of Chat-

ham, when before his genius and power the throne of the Bourbons trembled to its center? The spirit of factious opposition, that common cause of calamity, that without which liberty might be eternal, and free states irresistible.

THE HARTFORD CONVENTION

In the congressional elections in the autumn of 1814 the opponents of the war elected all the representatives from New England except three. Emboldened thereby the Massachusetts legislature, on October 18, 1814, proposed a convention of the New England States "to lay the foundation of a radical reform in the national compact by inviting to a future convention a deputation from all the other States in the Union."

Agreeably to this proposition delegates from Massachusetts, Rhode Island, Connecticut, and the Federalist counties of New Hampshire and Vermont met at Hartford, Conn., on December 15, 1814. In this convention, which deliberated for three weeks, a report to the legislatures and counties represented was adopted, in which a number of constitutional amendments were proposed; but news of the signing of a treaty of peace with Great Britain was received before any of the recommendations could be acted upon.

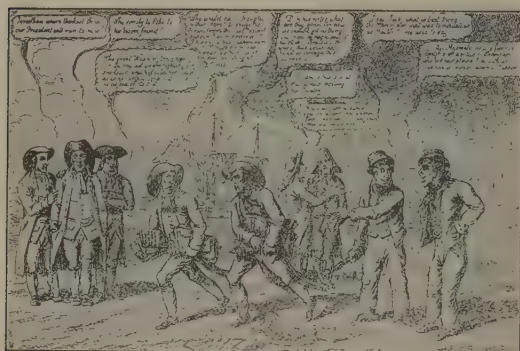
[For a discussion of the Hartford convention in its bearing upon the question of secession, see Volume V, Chapter I.]

APPOINTMENT OF PEACE COMMISSIONERS

Early in 1813 the Emperor of Russia offered himself as a mediator in order to facilitate peace between Great Britain and the United States. At the opening of Congress in May, 1813, the President announced that he had appointed James A. Bayard, Henry Clay, and Albert Gallatin as envoys extraordinary to act with John Quincy Adams, minister to Russia, and Jonathan Russell, *chargé des affaires* of the United States at London, as peace commissioners.

The British Government, on one pretext or another, delayed appointing commissioners to negotiate with the

American envoys. Indeed it was not until the summer of 1814 that the British commissioners, Lord Gambier, Henry Goulburn, and William Adams, were appointed. On August 6 the commissioners of both countries met at Ghent, in Belgium, and proceeded to their negotiations, which terminated on December 24, 1814, with the signing of the treaty.



THE FALL OF WASHINGTON, OR MADDY [MADISON] IN FULL FLIGHT
British caricature

From the collection of the New York Historical Society

The delay had been profitable to Great Britain. The failure of the military policy of the American Government, the great expense of the war, and the rapidly increasing strength of the opposition made it imperative that peace should be secured as quickly as possible, and, if necessary, at a sacrifice, even of principles. Hence, even before the commissioners met at Ghent, the American Government had instructed its representatives to omit, at their discretion, any stipulation on the subject of impressment which appeared likely to be the point of irreconcilable difference.

The American commissioners therefore, after contending for as long as it seemed wise for the assertion of

"sailors' rights," for the maintenance of which the war had really been fought, at last agreed to accept Great Britain's relinquishment of the practice (now that there was peace in Europe) in lieu of her humiliating recantation of the principle. The question of neutral rights also was not pressed by the American commissioners for the same reason.

The main provisions of the treaty were:

1. Restoration to its former ownership of territory captured by either party.
2. Settlement of disputed territory, and establishment of boundary by joint commissions.
3. Suppression by the earnest efforts of both parties of the slave trade, as being a practice "irreconcilable with the principles of humanity and justice."

Although the objects for which the United States had begun the war were not mentioned in the treaty, they were practically secured by the contest. Thereafter, knowing that such actions would result in war, Great Britain did not attempt to enforce against this country her peculiar construction of neutral rights, the right of search, and the impressment of sailors.

son [La.] and John Floyd [Va.] also spoke in favor of the motion. On March 27 the resolution for prudential reasons was negatived by a vote of 115 to 45.

THE SOLIDARITY OF AMERICAN REPUBLICS

HOUSE OF REPRESENTATIVES, MARCH 24-27, 1818

CHAPTER VIII

RECOGNITION OF SOUTH AMERICAN REPUBLICS

[THE MONROE DOCTRINE]

Revolt of Latin America—Resolution in the House of Representatives to Send a Minister to La Plata Republics; Speeches in Favor: Henry Clay [Ky.], Thomas B. Robertson [La.], John Floyd [Va.]—Motion Negatived—President James Monroe's Message in Favor of Recognizing Independence of South American Republics—Resolution of the House to This Effect; in Favor, David Trimble [Ky.]; Opposed, Robert S. Garnett [Va.]—Motion Carried—The President Declares Against European Colonization of the Americas and Interference in American Affairs—The Occasion of the Declaration—Strict and Broad Construction of the Doctrine—President John Quincy Adams Accepts Invitation to Send Delegates to the Panama Congress—Debate in the Senate: in Favor, Josiah S. Johnston [La.]; Opposed, Robert Y. Hayne [S. C.], Levi Woodbury [N. H.]—The Action is Ratified—John Branch [N. C.] Introduces Resolution in the Senate Protesting Against the President Acting in Such Matters Without the Consent of the Senate—John Randolph [Va.] Attacks the President and Secretary of State (Henry Clay): "Bliffl and Black George"—Duel Between Randolph and Clay.

DURING the first quarter of the nineteenth century there occurred a general revolt under the leadership of General Simon Bolivar against Spanish rule throughout Latin America. Among the first of the former colonies of Spain to establish a fairly stable government under the republican form were the provinces of the River Plata. The question arose in Congress as to the recognition of these governments. The Spanish minister, Señor Onís, opposed this action. On March 24, 1818, Henry Clay [Ky.] proposed in the House of Representatives to appropriate money to send a minister to Buenos Aires, and on the next day supported his resolution by a speech. Thomas B. Robert-

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GREAT AMERICAN DEBATES

vantages to our country, however great and certain they may be, as of so much importance as the political and moral effects growing out of a liberal and manly policy toward the South American people. It will have a tendency to give us confidence in the firmness and virtue of Government—it will prove that it is not forgetful of the high character which belongs to us as a powerful and free people—that the reputation we have acquired, at the expense of so much blood and treasure is not to be sacrificed by timidity, or an undue spirit of accommodation toward the monarchs of Europe—that we will do what our principles require, in spite of imaginary terrors, artfully excited by the enemies of freedom—in fine, that, cautious of giving just cause of offence, we will pursue the path of fidelity and honor in defiance of the views and wishes of those whose political institutions make them necessarily hostile to human happiness and human rights—that we dare at least do what we are sustained in by right and truth in favor of the liberties of mankind without being deterred by those who promote, with unhallowed violence, at the expense of every sacred obligation, the dogmas of priest-craft and the doctrines of despotism. And, if we are asked by the officious and intermeddling representatives of kings why it is that we not only feel but manifest sympathy for a people struggling to be free, let us refer them to their own unholy combinations, in support of the execrable principles of their government—let us tell them of their wars for thirty years past against liberty—that if the safety of monarchies in Europe depends on the annihilation of republics, the security of a republic in America will not be injured by other republics growing up by its side.

Mr. FLOYD.—The grand object and advantage of establishing an independent policy for America would be that we might be disenthralled—that we might not feel the effects of that political plexus which has so entangled the nations of Europe, by producing those intimate connections and combinations by which the movements and operations of one power are so felt by all as to influence their councils and produce corresponding motions. When now we negotiate, it is in Europe; when we are inconvenienced here, we send off an ambassador there; they are governed by the principles and policy of continental Europe, and not by anything here. Do difficulties arise in Canada, they are adjusted in London. Do the same difficulties arise in Mexico, the province of Texas, or in Florida, they are settled in Madrid. Thus are we compelled to negotiate all our affairs upon the basis of European policy, because even the

We are the natural head of the American family. I would not intermeddle in the affairs of Europe. We wisely keep aloof from their broils. I would not even intermeddle in those of other parts of America farther than to exert the incontestable rights appertaining to us as a free, sovereign, and independent power; and, I contend, the accrediting of a Minister from the new Republic is such a right. We are bound to receive their Minister, if we mean to be really neutral. If the Royal belligerent were represented and heard at our Government, the Republican belligerent ought also to be heard. Give M. Onís his *congé*, or receive the Republican Minister. Unless you do so, your neutrality is nominal.

Mr. ROBERTSON.—I do not consider the direct pecuniary ad-

¹ Washington's answer to the French Minister's address, on his presenting the colors of France, in 1790.

THE MONROE DOCTRINE

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best interests of the colonists must give way to the policy of the mother country.

But when the independence of the South Americans shall be acknowledged, and they take their stand among the great nations of the earth, there will then be an American policy, and a European policy, which may, in negotiation upon just and honorable principles, be fairly opposed to each other. Then, if, unhappily, difficulties should arise exclusively on this side the ocean, there will be no European convenience to consult, delay, or obstruct their adjustment in terms of complete reciprocity.

On March 8, 1822, President Monroe in his message expressed it as his opinion that the American provinces of Spain which had declared their independence and were in enjoyment of it should be recognized by the United States as independent nations. On March 28 a motion to extend this recognition was introduced into the House of Representatives. David Trimble [Ky.] made the chief speech in its support. It was passed by a vote of 167 to 1. Robert S. Garnett [Va.] cast the single vote in opposition, and, suffering from odium for his action, on March 30 he asked to have his reasons for dissent to an otherwise unanimous opinion entered on the Journal of Congress. His request was refused by a vote of 49 to 51. On April 1, however, when the feeling of the House was somewhat sobered, the vote was reconsidered and the desired permission was granted, 89 yeas to 71 nays, those who voted in the negative doing so in order not to establish a precedent that might encumber the minutes.

RECOGNITION OF SOUTH AMERICAN INDEPENDENCE

HOUSE OF REPRESENTATIVES, MARCH 28-30, 1822

Mr. TRIMBLE.—The nations of America have suffered more from the severity of commercial interdictions and colonial monopoly, than they have from the cruelty of arbitrary power—that commercial vassalage has been more oppressive to them than political dependence; and that they are as deeply interested in the establishment of free trade as they are of free government. The radical change made in their political condition will necessarily be attended with a corresponding change in

their commercial intercourse and maritime relations. Their case, in all its aspects, is similar to that of the United States, and will terminate in similar results. The entire emancipation of the new from the old continent can only be effected by two great revolutions: the one political, the other commercial. Both had commenced in the United States under the most favorable auspices, and are progressing southward in the "full tide of successful experiment." These revolutions have been preceded by a "wide-spread range" of moral reformation. The new hemisphere has produced a new catalog of civil maxims—a new family of political institutions—a new code of commercial regulations. All civilized nations were under the dominion of two great social systems, differing widely from each other. One is established in the *Occidental*, the other in the *Oriental* world. The spirit of the age is against the European system. The American system has invaded Europe, and spreads alarm and consternation everywhere among its kings and emperors. A coalition of crowned heads is created to oppose it and two millions of armed men embodied to expel it from that continent.

And what are these systems? What is the American system? Why is it that it agitates two worlds? Why should kings shudder at it, while their subjects bid it welcome? Of what is it composed? What is the element that thus, when unresisted, operates unseen, but, when opposed, launches its thunderbolts at diadems and shakes the nations like an earthquake? It has two aspects, two essential principles—one political, the other commercial. The first is known and distinguished by written constitutions, representative government, religious toleration, freedom of opinion, of speech, and of the press. The second, by sailors' rights, free trade, and freedom of the seas.

Contrast it with the European system. The political character of that system is aristocracy, monarchy, imperial government, arbitrary power, passive obedience, and unconditional submission. Its commercial character is prohibition, restriction, interdiction, impressment, colonial monopoly, and maritime domination. These systems are the antipodes of each other. They are sworn enemies, and cannot harmonize.

The American system is free government and free trade; monarchy and monopoly is that of Europe. But the European system is artificial, and will perish with the spurious causes that produced it. The American system is natural, and, therefore, durable—natural, because it springs from public opinion—from the embodied will of nations acting freely for themselves; durable, because it reposes upon written constitutions.

her love of dominion? Shall we, as a nation, stifle all our sympathies in favor of free governments, to gratify the vain-glorious pride of Spain? If we do, we shall betray the rights and interests of republic. Heaven, in giving freedom to us first, made it our primal eldest duty to go forth first, and acknowledge it in others. Honor and duty call alike upon us to perform the rightful obligation. The same Providence that gave us success in the perils of our Revolutionary struggle is conducting the other nations of America, through bloody wars, to peace and independence. Our approbation may inspire them with fresh confidence, and stimulate their love of liberty. If there are any who have fears that the proposed acknowledgment will produce a war with Spain, let them remember that Cuba is a hostage for her peace. The moment she fires a gun at us, we shall occupy that island and her dominion over it will cease forever. And England, in aiding Spain, would only hasten the downfall of her favorite colonial system—a coalition between Colombia, Mexico, and the United States would convince her of her folly. It would be better for us if our statesmen would look less eastward, and more southward than they do at present.

Some statesmen hold that nations whose political principles and opinions have been formed in the school of despotism must undergo long periods of probationary preparation before they can be qualified to manage the affairs of self-government. This is but a modification of the exploded maxim, "that the people know not how to govern,"—that kings must save them from their worst enemies, themselves. Such opinions, if true, form no argument against the policy or justice of acknowledging the nations of America. If true, in former ages, and on the old continent, they are more than doubtful in modern times, and in the new hemisphere. The fact is that the present and past ages are alike in nothing. The whole civilized world is under the dominion of a different mind. Men and nations are shaking off their mental imbecilities and preparing themselves to regulate their own affairs. It was necessary that moral regeneration should precede political reform; and thus it has happened. A great moral revolution has occurred, and is occurring. The spirit of the age is buoy—reformation is everywhere at work, and upon all subjects. We see the beginning, not the end of revolutions. No statesman, no nation, should mistake the character and fashion of the times. Every thing in fifty years has changed, and every thing is changing. "Nothing of the future will resemble what is past." We live in the crisis of all ages. The whole civilized world is laboring in a crisis—a great

its first appearance struck the despots with dismay. Our Revolution gave it birth. Its nativity was cast among these States. It grows with their growth, and strengthens with their strength. The impulse of the age accelerates its motion. Nothing can impede its march because it moves in the majesty of national opinion and public opinion is a power that cannot be resisted. From every zone we hear of congresses, elected by the people, assembled and assembling to establish written constitutions. The system spreads like light—its rays fall everywhere. The nations hail it as the harbinger of peace and happiness. They act wisely in laboring to adopt it, seeing that the people of this Union have prospered under it beyond all former parallel.

The tendency of the American system is manifest to every statesman. Its political progress and extension can be seen by every observer, and time will develop its maritime results. A single instance will explain its commercial operation. The continent is free; not so the Islands. Europe, as to them, will continue its system of colonial monopoly—its system of interdictions, prohibitions, and restrictions. These will act and re-act upon all the Americas, but more especially upon Colombia, Mexico, and the United States. Those powers will retaliate, and unite in their retaliation. The common injury will find a common remedy. They will adopt the counter-check of navigation laws, and, by simultaneously protecting regulations, exclude all foreign tonnage from their ports and harbors. A blow like that would be decisive. It would forever prostrate the colonial system and open a free trade to all the Islands. The measure, when adopted, would finish the commercial revolution. It would subvert the whole system of maritime domination, and restore the freedom of the seas. And thus the Americas, by the reaction of internal laws and regulations, well concerted and well directed, may enforce their system of free trade. Thus, without the waste of blood or treasure, they may sustain the general system, and vindicate the rights and honor of the continent. Hitherto, he said, the American system of free trade had been struggling, single-handed, with the European system of colonial monopoly, and had maintained itself against the fearful odds. Hereafter, all the Americas will coöperate. The subject ought to have their prompt attention. It required a careful examination, because the course of policy to be adopted by them would settle, finally and forever, whether the American system shall prevail, or that of Europe triumph over it.

Shall the people of this continent forego the advantages of free and friendly intercourse, to indulge the mother country in

moral crisis—a great political crisis—a great commercial crisis. Nations have changed their moral characters, and political opinions and governments must change their form and purpose. Formerly the sword was umpire of the world; and then the maxim grew that nations were incapable of self-command. Now public opinion is the great chancellor of nations. All tongues and kindreds own its jurisdiction, and kings and subjects are submissive to its rule; none dare oppose its high authority—none with impunity resist its just decrees. Wars were fought formerly for families and dynasties; for the rights of thrones and prerogatives of crowns; and then the people were assuredly their own worst enemies. Now men fight for written constitutions; for the rights of man and prerogatives of nations; and, fighting, learn to govern for themselves. The contest now is not between dynasties and diadems, but between creeds, and principles, and institutions.

Nations formerly had no volition; kings thought and acted for them, rudely pretending that their subjects had no capacity for affairs of state. But now the will of nations has supremacy of rank, and speaks by delegation in assembled Congresses; and now we find more talent—more patriotic feeling—more public virtue—more every thing, that strengthens and improves the social system. Time was when kings held power by arrogation, and used it at their pleasure and discretion; and then the people were denounced as "a many-headed monster." The people now reclaim all power as inherent in themselves, and delegate it only as a trust; and now nations are more peaceful, more prosperous, more happy, and more just than formerly. History speaks only of alliances, or wars, between contemporary despots—now nothing is talked of but congresses, and constitutions, and representative governments. And do we find things changing for the worse? The spirit of the age is, peace and moderation. It is the spirit of free government and written constitutions. Its conservative principles are—widespread knowledge, equality of rights, freedom of opinion, and frequent and free elections.

The spirit of past ages was war and domination. The trade of man, of all the sons of men, was war—from the first conqueror down to '76. It was the storm of empires. It raged unspent and unabated. It swept along the field of time, and all was desolation that was left. It had no limits but the margin of the world. Its stream of blood flowed on from age to age; its sources, like the Nile, unknown, lost in the desert of forgotten years; but still, the stream rolled on, increasing with a

thousand tributary torrents, and spreading far and wide its overwhelming floods. Such was the history of past times, and of the olden world. Our continent, on the contrary, is the chosen land of liberty—vineyard of the God of peace; and we, its husbandmen, selected by the unseen will of Providence to till the soil, and feed the famished nations with the food of independence. Let us perform the sacred trust impartially. It is our duty, as a free people, not to sanction but refute the heresies that nations are incapable of managing their own concerns. They have disabused themselves by illustrious examples, and we should be careful not to weaken their effect.

It is the will of Providence that this continent should be the arena of successive revolutions—of moral, and political, and commercial revolutions—the theater of man's political regeneration—the hemisphere in which nations should be reinstated in their rights, and reinvested of their "long-lost liberty." On the 4th of July, 1776, the Congress of the thirteen States declared their independence. On this day (28th March, 1822) the assembled Congress of the Union will announce the independence of all the nations of America. These are glorious epochs. Let history commemorate them as coessential in the works of reformation. Freemen are this day called upon to fraternize with freemen; nations to fraternize with nations. All the Americas are summoned to embrace as friends and equals, and make a lasting covenant of peace. It is not the flight of a false prophet, or the foundation of a city, the birthday of a petty chieftain, or an heir-apparent that we are assembled here to celebrate; no; a continent has disenchained itself, and stands unfettered and erect. It is the birthday of a hemisphere redeemed. It is the jubilee of nations. Let the world rejoice.

If experience and long suffering can create the faculties of self-government, then the people of America are prepared to manage and control their own affairs. For three long centuries they "clanked the chains" of lawless power; for three long lingering ages they felt the "keen lash" and galling yoke of despotism—each generation leaving its manacles to posterity as their only heritage. Continued agonies had worn away the memory of better times. The light of hope had left the Children of the Sun, and dark despair, like soporific drugs, had stupefied the powers of will and faculties of life. They slept to mitigate their pain; for nations sleep and never die. But the day of their deliverance was at hand. The Spirit of God was abroad in the sky. It called, and the slumbering nations awoke. It

breathed the electric fire of freedom on the air, and a whole continent ran simultaneously to arms! One great, one godlike purpose animated all—it was death or independence! Like us, they pledged their lives, their fortunes, and their sacred honor, to live as freemen, or die in its defence. They fought from field to field. A thousand battles left the cause in doubt; a thousand passions mingled in the fray; and all that history has told of savage cruelty, ferocious vengeance, rapine, plunder, treachery, cold-blooded massacre, and every violence and every crime that shocks humanity was perpetrated over and over again upon all ages, sexes, and conditions. But the God of Battles fought on freedom's side, and, sickening at the scene of carnage and of desolation, and hastening to end it, he took a Bolivar and consecrated him a Washington, and, putting in his hand a flaming sword, commanded him to go forth to the uttermost ends of the continent, conquering and to conquer, until oppression should surcease, and man learn tyranny no more. And behold the work is finished, and Colombia is free, and all the Americas are free—free as ourselves; for there all power is acknowledged in the people, and vassalage abolished, and unknown; for there all officers are elective, and held by the tenure of the law and the constitution; for there, free in their property, their persons, and religion—

"They own no Lord but Him in heaven,
No power but what consent has given."

Mr. Garnett submitted the following declaration of his reasons for not voting to recognize the republics:

I voted against the recognition of the late American provinces of Spain, not because I am opposed to their independence; on the contrary, I rejoice in its accomplishment, and believe that it would be even better for them to be independent with a worse form of government than to be dependent with a better. But I voted against it because I am of opinion that recognition must be either the mere formal declaration of a fact which will be inoperative, and therefore useless, or it must be substantial, and propose some advantage to one or both of the parties—that, if it be substantial, it must be intended either to impart to the party recognized the physical means, or the moral force, necessary to accomplish their revolution, or to establish relations for the mutual benefit of both the parties concerned—that the idea of assistance, to consummate a revolution, concedes that it is not completed, and is incompatible with the neutral obligations

to the country claiming jurisdiction; and that the second alternative of mutual benefit reduces it to a question of policy in which it is only necessary to balance the good with the evil:

That we have no right to recognize nations because they have adopted forms of government congenial with our own, if our recognition would not otherwise be proper; and to maintain this doctrine would be to assert the odious principle of legitimacy, that nations have a right to interfere with the internal concerns of each other, which must be beneficial or injurious accordingly as free principles or despotism happens to prevail in the world; and that, for this reason also, the present is a question of policy, not of principle:

That, the period having past when our recognition of the independent Governments of South America could be of any substantial benefit to them, their independence being already firmly established, it is impolitic in us, for the sake of any advantages which either party is likely to derive from an intercourse at this time, to risk those we already possess.

That, if Spain only, through mistaken pride, resents our act, though perhaps too feeble to carry on a war with us, she may interdict our commerce with her remaining colonies, and thus deprive us of a trade more valuable than any we can expect to substitute, for a long time, with the independent provinces:

That, if the importance of this trade to those colonies should induce them to revolt, or our recognition itself should produce in them revolutionary movements, the island of Cuba, the most valuable to us, will either fall under the dominion of the colored population, or of our jealous and ambitious rival, England, or we must occupy it ourselves, at the expense of a war with that rival, who will certainly seek to prevent that occupation at the same cost:

And, finally, that circumstances do not warrant precipitancy—that the great interests of both parties will be endangered without any adequate motive for the risk; and that the temporary *éclat* which priority of recognition may obtain for us is not to be put in opposition to the great permanent interests of both countries, which will be best promoted by adhering, on their part, to the sage monitions inculcated in the language of one of their most distinguished patriots, Rivadavia, who declared, as late as September last, "that they did not seek the recognition of other nations, because it must operate, if unsuccessful, to the humiliation of the provinces, and, if successful, to mislead the people, by persuading them that such recognition

was all-sufficient to their political existence and happiness; that the most efficacious system would be to establish order and wise institutions of government throughout the provinces, and to show themselves worthy of the fraternity of other nations, when it would be voluntarily offered"; and, on our part, by abstaining to propose that fraternity, until the elements of their political society, purified from the crimes and corruption engendered by former oppression, have settled down into order, and they have fully demonstrated their capacity for self-government, and until we are mutually in a condition to derive advantages from a free intercourse, which will overbalance the considerations of the evil which immediate recognition presents, without a prospect of good.

In his message of December 2, 1823, President Monroe announced the famous doctrine that bears his name. It consisted of two declarations which appeared in widely separated parts of the message:

The first declaration was:

That the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European power.

The occasion for this declaration was as follows: Russia claimed the Pacific coast as far southward as 51 degrees north latitude. Great Britain and the United States opposed this claim, from 54 degrees and 40 minutes southward, and disputed between themselves the possession not only of the coast but of the interior Western country, the former claiming that its southern boundary was 46 degrees (the line of the mouth of the Columbian river), and the latter that its northern boundary was 54 degrees and 40 minutes. In 1818 Great Britain and the United States agreed by treaty to a joint occupancy for ten years of the disputed territory. Early in this period Great Britain began to explore the country, presumably preparatory to settling it, and thereby acquiring the "nine points of the law" by the time of adjudicating the ownership.

On July 2, 1823, John Quincy Adams, Secretary of

State, wrote to Richard Rush, American Minister to Great Britain, a declaration for Rush to present to the British Government that the continent of America "is occupied by civilized nations and is accessible to Europeans and to each other on that footing alone," meaning by this that no more original titles could be secured by discovery, exploration, or settlement. Five months later, without the knowledge of the rest of the Cabinet, Secretary Adams caused President Monroe to insert the declaration to this effect in his message.

The British Government denied that the declaration was in accord with facts, asserting that there still remained land on the American continent to which no original title had been acquired.

The second declaration of the Monroe Doctrine, as we shall see, was also inspired, and was also in thorough accord with the maxim "America for Americans" which had been and was to continue the guiding principle of the President's foreign policy. It ran:

In the wars of the European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded, or seriously menaced, that we resent injuries, or make preparation for our defence. With the movements in this hemisphere, we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different, in this respect, from that of America. This difference proceeds from that which exists in their respective Governments. And to the defence of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered, and shall not interfere. But, with the Governments who have declared their independence, and maintained it, and whose independence we have, on great consideration, and on just principles,

The South American republics were greatly delighted with the declaration which, their wish being father to the thought, they construed as pledging the United States actively to defend their territories from European colonization, instead of encouraging each country to defend its own integrity. This view was chiefly instrumental in causing the countries, early in 1825, to call a congress of all the American republics, including the United States, to meet in Panama to discuss questions of mutual concern. This broad construction of the Doctrine was from the beginning also the popular one, and has become, by an increasing extension of the principle in such cases as Yucatan (1848), Mexico (1861-65), and Venezuela (1895), the official construction, and as such is acquiesced in even by some European powers. It will be interesting for the reader to note, in the debates upon these cases, the early opposition to the Doctrine, even in its mildest construction, gradually disappearing until the broadest construction is scarcely contested.

THE PANAMA CONGRESS

In his first message to Congress (December 6, 1825) President John Quincy Adams announced that he had accepted an invitation from the South American republics to send delegates to a Pan-American Congress to be held at Panama, these delegates to take part in the deliberations "as far as may be compatible with that neutrality from which it is neither our intention nor the desire of the other American states that we depart." Colombia, the foremost of the republics, had voiced the invitation. Among the subjects for consideration which it suggested for the congress was "the means of making effectual" the Monroe Doctrine.

Great opposition to taking part in this congress as likely to embroil us in foreign disputes at once became apparent, and the President, who was ardently in favor of the project, on December 26 sent a special message on the subject to the Senate, which was intended to allay objections. It said "an agreement between all the

acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling, in any other manner, their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition toward the United States. In the war between those new Governments and Spain, we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur, which, in the judgment of the competent authorities of this Government, shall make a corresponding change, on the part of the United States, indispensable to their security.

The occasion of this declaration was the proposition of the Holy Alliance at its congress at Verona in 1822, that the allied European powers should check the spread of republicanism throughout the world by interfering with its greatest source of propagation, namely, America. This portended that the monarchies of Europe would either assist Spain to recover her revolted colonies by force, would seize them for themselves, or would establish them as dependent monarchies, and even that the greatest exemplar of the blessings of popular government, the United States, might be ruined by such means as discriminations in trade, if not actual warfare.

When the declaration of Verona became known the British secretary of foreign affairs, George Canning, wrote to Mr. Rush, the American minister, urging the United States to oppose the proposed European intervention in the affairs of the South American republics. Rush sent the letter to Washington, and the President, after consultation with Thomas Jefferson, followed its advice by the enunciation of his celebrated Doctrine.

The determined attitude of the United States effectively strengthened the British Government in blocking the proposal of European absolutism to destroy republicanism in America, and was the earnest of Canning's famous prophecy that "the New World had been called into existence to redress the balance of the Old, and would in time outweigh and topple over the fabrics of kingcraft upon which so many wise men had labored for thousands of years."

parties represented at the meeting *that each will guard by its own means* against the establishment of any future European colony within its borders may be advisable."

On March 14, 1826, the Senate began the discussion on the advisability of sending delegates to the congress. The debate was in secret, but with the understanding that each speaker might publish his speech after the question had been decided. Of this privilege several senators availed themselves. Says Senator Thomas H. Benton, in his "Debates of Congress":

It was the principal debate of the session, and entered largely into the contest, then hot, for party supremacy—the Administration staking itself upon the mission, as the opposition did against it. It was carried through both Houses of Congress, but deprived of its *prestige* under the heavy blows which it received; and became abortive from the failure of the congress ever to meet. Losing, as it has, the hot interest derived from party contention, the debate (stripped of temporary topics) retains a permanent value from the ability which it developed, and the views of national policy which it opened.

The measure was passed by a vote of 24 to 19, and delegates were appointed to the congress. One of these, however, died, and the other failed to reach Panama in time for the first session of the congress. Owing to disappointment of the South American republics at the conservative attitude of the United States a second session was not held.

A leading speaker in support of the measure was Josiah S. Johnston [La.]. It was strenuously opposed by Robert Y. Hayne [S. C.] and Levi Woodbury [N. H.].

THE PANAMA MISSION

SENATE, MARCH 14-16, 1826

SENATOR HAYNE.—No man can deny that the Congress of Panama is to be composed of deputies from belligerent States, and that its objects are essentially belligerent. These objects are not concealed but are publicly avowed, and known to the world. It is to be an assembly of confederates, differing very little from

the old Congress under our Articles of Confederation, to which, indeed, it bears a striking resemblance.

The question arises whether a neutral state can join in such a council without violating its neutrality? Can the United States lawfully send deputies to a congress of the confederated Spanish American states—a congress which not only has objects confessedly connected with the prosecution of the war, but when it is notorious that these belligerent objects create the very occasion of its assembling? Can we do so without departing from our neutral relations toward Spain? Is it possible, Mr. President, that this can be seriously questioned. It will not bear an argument. There can be no difference under the law of nations—for there is none in reason or justice—between aiding a belligerent in council or in action—between consulting with him in respect to belligerent measures or furnishing the men and money to accomplish them. A strict and honorable neutrality must keep us out of any meeting not having peaceful objects exclusively. The law of nations in this respect cannot differ from those rules of municipal law founded in the common sense of mankind which involve in a common guilt all who associate with those engaged in any unlawful enterprise. It is not permitted to individuals, nor can it be permitted to nations, to excuse themselves for acting with those engaged in belligerent enterprises by alleging that their own purposes are peaceful. Sir, I hold that, if you go into council at all with such powers, you become answerable for all their acts.

But an attempt is made to remove all our apprehensions on this subject (and it comes from a high quarter, too) by the assurance that Spain is just about to acknowledge the independence of her former colonies, under our mediation. The Secretary of State, in his report which accompanies the President's message of the 9th January, in answer to our call for information, transmits a mass of documents to show that our Government has invoked the aid of Russia; that the emperor has interfered at our request; and that there is a flattering prospect of speedy and entire success. So says Mr. Middleton—so says Mr. Clay. But, Mr. President, it fortunately happens that the Senate, on the 30th January, made another call for information on this point, and the answer of the President, of the 1st of February, dispels the illusion entirely. The three letters of Mr. Everett, there disclosed, demonstrate that there is no hope, whatever, of a peace. The Minister of the Spanish Government (Mr. Zea) declares that the determination of the king, on that subject, is unalterable—he will stand upon his naked right and

look to Providence, should all other means fail. But this is not all. The Russian Minister concurs in the views of Mr. Zea, and the British Minister will not interfere.

The first great subject to which our attention at this congress is to be called arises out of the pledge which Mr. Monroe is supposed to have given "not to permit any foreign power to interfere in the war between Spain and her colonies"; and it appears from the correspondence to be the special object of the new states to get us to enter into treaties to redeem that pledge, according to the construction they have chosen to put upon it, and in which, I am sorry to add, the Executive seems to have acquiesced. Mr. Oregon tells us that the United States are only expected to take part in those matters which the "late Administration pointed out as being of general interest, for which reason," says he, "one of the subjects which will occupy the attention of the congress will be the resistance or opposition to the interference of any neutral nation in the question and war of independence between the new powers of the continent and Spain"; and "that, as the powers of America are of accord as to resistance, it behooves them to discuss the means of giving to that resistance all possible force, that the evil may be met, if it cannot be avoided; and the only means of accomplishing this object is by a previous concert as to the mode in which each of them shall lend its coöperation: for, otherwise, resistance would operate partially and in a manner much less certain and effective.

"The opposition to colonization in America by the European powers will be another of the questions which may be discussed, and which is in like predicament with the foregoing."

Mr. Salazar holds language on this subject still more explicit.

Now I do positively deny that Mr. Monroe ever pledged this nation to go to war, or make treaties, to prevent the interference of any European nation in the present contest. I deny that he had a right to make any such pledge; and most of all do I deny that any sanction has been given to such an idea by the Senate, the House of Representatives, by the States, or by the people of the United States. The language of Mr. Monroe is extremely vague and indefinite. That great and good man well knew that he had no power to use any but a moral force on that question; and beyond this moral influence over the councils of the nations of Europe he neither attempted nor desired to go. He well knew—every intelligent man in the United States knows—that this nation is not now and never has been prepared to go to war for the independence of South

America. The new states have always carried with them our warmest wishes for their success—but beyond the indulgence of a sincere and friendly sympathy we have never been willing to proceed. Mr. Monroe's declaration, I repeat, was intended to produce a moral effect abroad; he designed it for the atmosphere of Europe, and therefore it was couched in such terms that, while it did not commit us to any overt acts, it left foreign nations under a vague impression of what we might do if the event alluded to should ever happen. The substance of Mr. Monroe's statement was "that he should consider any attempt on their part (the powers of Europe) to extend their system to any portion of this hemisphere as dangerous to our peace and safety," and as "the manifestation of an unfriendly disposition toward the United States." It is obvious that we are left by this pledge altogether free to act in any emergency according to circumstances and a sense of our own interests. We have incurred no obligations to others by the declaration; and it is our policy to incur none. But it now appears that the new states have conceived themselves entitled to our aid whenever foreign interference shall be threatened, and (what is truly unfortunate) it further appears that the new Administration have acknowledged their claims and admitted our obligations; they have acted, and are now about to act, on the presumption that the Spanish American states may rightfully claim, and that we are bound to grant, our assistance against all nations who may "hereafter interfere in any way whatever in the question and war of independence." Nay, so far have our Government gone in this respect that they have actually claimed commercial privileges from these states on the ground that we are to be considered as "one of the American nations," and "within the pale of the great American system"; that we are "prepared to bear the brunt of the contest which will arise should any foreign power attempt to interfere."

To show how far our Government have proceeded in this course I must be permitted to read a few pages from the documents before us. In the letter of our minister to Mexico to the Secretary of State, dated 28th September, 1825, after giving an account of the difficulties which had arisen in making a treaty with Mexico, in consequence of the desire of that government to introduce an article putting it in their power to grant special commercial privileges to the other Spanish American states, he informs us that he insisted that we should be entitled to similar privileges because "we were bound to them by similar fraternal ties." To some objections urged against our claims

on the ground that we had not yet taken part in the war, our minister replied in the following words, viz: "To these observations I replied that, against the power of Spain, they had given sufficient proof that they required no assistance, and the United States had pledged themselves not to permit any other power to interfere either with their independence or form of government; and that, as in the event of such an attempt being made by the powers of Europe, we would be compelled to take the most active and efficient part, and to bear the brunt of the contest, it was not just that we should be placed on a less favorable footing than the other republics of America, whose existence we were ready to support at such hazards." The minister then goes on to state that, after explaining what we had already done, he declared "what further we were ready to do in order to defend their rights and liberties; but that this could only be expected from us, and could only be accomplished by a strict union of all the American republics on terms of perfect equality and reciprocity; and repeated that it was the obvious policy of Europe to divide us into small confederacies, with separate and distinct interests, and as manifestly ours to form a single great confederacy, which might oppose one united front to the attacks of our enemies."

And now, sir, I must put the question directly and seriously to the Senate, whether they are prepared to send ministers to the congress of Panama for the purpose of making effectual this pledge of the President of the United States, as construed by the present Administration and understood by the Spanish American states? Whatever may be the opinion of others, I, for one, have no hesitation in declaring that I am not prepared for any such proceeding; I am not ready now to declare that I will involve my country in all the horrors of war for the establishment of South American independence; and even if I were prepared to say that, rather than permit the interference of any foreign nation in the contest, "we must fight," still I should think it wise and prudent not to commit ourselves by treaties or compacts, but to reserve the right to act when the contingency shall happen, as our feelings or interests may then dictate. It is of the last importance that we should reserve this privilege to ourselves; that we should enter into no stipulations whatever with other nations on such a subject. But should we send ministers to Panama for these objects we will not be free to pursue this course. If our ministers go there with our sanction, committed as we know the President to be, we must either sanction the compacts which may be entered into or dis-

appoint the just expectations which we will have raised. In the one case our interests will be sacrificed, and in the other our friendly relations with the new states will be interrupted. Let us, then, avoid this dilemma by not placing ourselves voluntarily in a situation which will leave us only a choice of difficulties and impose upon us the hard necessity of offending our friends or injuring ourselves.

Connected with this object is another bearing a close resemblance to it: "the opposition to colonization in America" by any European power. If by this it is to be understood that we are to interfere to obstruct the settlement of the territories in America owned by Russia or England, it must speedily involve us in an unjust and unnecessary war. But if the design is to enter into compacts with the South American states not to permit any colonization within our respective limits, or if we are to make common cause in resisting all such attempts, then I must boldly declare that the scheme is, in the one case, derogatory to our honor, and, in the other, dangerous to our safety. What! is it come to this, that the United States of America are to come under obligations to others; to bind themselves to nations of yesterday, to preserve their own territories from invasion and their homes and their altars from pollution? Nay, are we, at this period of our history, to enter into solemn vows that we will neither permit ourselves to be conquered nor to be sold? Sir, the idea of treaty stipulations against colonization is degrading and unmeaning, unless it is intended that we shall guarantee to the new states the possession of their territories; and, if that is the plan, it is as unwise as it is dangerous.

I proceed next to consider the great object (which seems to lie so near to the hearts of some of our statesmen) of building up what they are pleased to call "an American system"—terms which, when applied to our domestic policy, mean restriction and monopoly, and, when applied to our foreign policy, mean "entangling alliances," both of them the fruit of that purient spirit which will not suffer the nation to advance gradually in the development of its great resources and the fulfilment of its high destinies, but would accelerate its march by the most unnatural and destructive stimulants. "As Europe (says Mr. Canas) has formed a continental system, America should form a system for herself." "The mere assembling (says Mr. Salazar) of the congress, by showing the ease with which America can combine, will increase our political importance." In plain terms, Mr. President, we are called upon to form a Holy Alliance on this side of the water, as a counterpoise to the Holy

Alliance on the other side of it. Are the people of this country prepared for that? What is there in the history or character of the Holy Alliance that makes it a fit subject for our imitation? This combination of nations at peace, to maintain certain principles and institutions, contains the most atrocious violation of the natural and social rights of man that the world has ever seen. It is wrong—most fatally wrong—and it makes no difference, in reason or justice, what the principles to be maintained are. It is of the essence of national independence that every country should be left free to adopt and to change its principles and its policy according to its own views of its own interests; and from the very bottom of my soul I abhor the idea of combinations among sovereign states for any purpose whatever. Great Britain, the only nation in Europe that possesses the shadow of freedom, has refused to join the Holy Alliance. I hope we shall follow her example in having nothing to do with this "great American Confederacy."

I have given to this subject, Mr. President, the most dispassionate consideration, and I am free to confess that, whether I consider the measure itself, the form of the invitation, or the course which has been pursued in relation to it, my mind is filled with the most unqualified astonishment. That the President should have committed himself, committed us, and committed the nation, and that the question should have been brought before us, will form, it appears to me, a curious page in the history of this country, which will hereafter be referred to with peculiar interest.

SENATOR WOODBURY.—The Secretary of State to Mr. Poinsett, October 25, 1825, says, no longer than about three months ago, when an invasion by France of the Island of Cuba was believed at Mexico, the United Mexican Government promptly called on the Government of the United States, through you, to fulfil the memorable pledge of the President of the United States, in his message to Congress, of December, A. D. 1823. What they would have done, had the contingency happened, may be inferred from a dispatch to the American Minister at Paris. Then follows that dispatch, dated October 25, 1825, in which he deliberately avows that "we could not consent to the occupation of those islands by any other European power than Spain under any contingency whatever." The same sentiment is repeated to Mr. Middleton, December 26, 1825, "we cannot allow a transfer of the island (of Cuba) to any European power." Has it indeed come to this, that we are to tell the autocrat of fifty millions he has not the same right to take a

transfer of Porto Rico as we had to take a transfer of Florida? Is this republicanism, equal rights, and received national law; or is it some marvelous discovery of the present age? And are we prepared, by this mission, to back up by a war the menace to France, that in no contingency whatever shall she be allowed to occupy Cuba, although she buy it of Spain by as fair and as honest a treaty as that by which we purchased Louisiana of France herself?

Are these the doctrines of the American Congress, or of the American people, or do they savor of the Holy Alliance?

Where, also, is the crisis—where the emergency to justify such an extraordinary measure? "Why quit our own, to stand on foreign ground?" Why join our fortunes in any case, much less in a useless war with powers of another origin—another tongue—another faith? Have we become incompetent to our self-defence? Are we in need of foreign "councils" and foreign "deliberations" to manage our own concerns? Or are we so moonstruck, or so little employed at home as, in the eloquent language of our President on another occasion—when the sentiments expressed found a response in every patriot heart—as to wander abroad in search of foreign monsters to destroy? Speaking of America and her foreign policy, he observed, "she has abstained from interference in the concerns of others even when the conflict has been for principles to which she clings as to the last vital drop which visits the heart." "Whenever the standard of freedom and independence has been or shall be unfurled, there will her heart, her benedictions, and her prayers be. But she goes not abroad in search of monsters to destroy. She is the well-wisher to the freedom and independence of all. She is the champion and vindicator only of her own."—(Adams' Oration, 4th July, 1821.) This is the first time that the legislative department of our Government has ever been distinctly appealed to for its sanction to the new notions thus ably denounced by him; and if we now approve the Panama congress, whose chief object is to enforce them, we at once adopt and approve the principle that Spain has not, by such alliances as national law warrants, and as were formed on both sides in our own Revolution, any right to attempt to reconquer and recolonize South America; and, further, that she has not, by such sales as national law warrants and as we ourselves have partaken, any right to transfer Cuba or Porto Rico to any European power with whom she can agree upon the purchase money; and that these unprecedented and unjust positions we are willing to maintain at any sacrifice of blood and treasure.

SENATOR JOHNSTON.—These Spanish American states have been engaged in a war of revolution. They have achieved their independence; all the force of Spain has been driven from the continent. But, as Spain refuses all terms with them and may renew the war upon either the most exposed or the most feeble; as she will concentrate all her power upon a given point; as the occupation of any position on the continent will form a basis of operations on which to act against all the rest; as it will become the rallying point of all her adherents and enable them to prolong the war—it became necessary to unite for the common defence of all and mutually to guarantee peace, security, and independence.

In such a compact it was not our duty, our policy, or inclination to engage; and, accordingly, we find that no proposition was made to us to become a party, and all the communications speak with the most guarded precautions and the most explicit avowals. To believe that they intended to unite us in their councils or to draw us into their measures would be to arrive at this conclusion not only without evidence but against all evidence and in the face of the most solemn assurances. This alliance of Spanish American states is already formed. The parties that compose it, the principles on which it is based, the obligations it imposes, and the means to be employed are fully set forth in the convention before us; to which I confidently refer.

But suppose we were to take part in the discussion of belligerent measures, what part should we take? It is our interest and our duty to keep Cuba as it is: a movement there would be dangerous to us. The Secretary of State has said we desire to see Cuba remain as it is. The President has, on a memorable occasion, said: "We cannot view with indifference the interposition of any European nation." We should, therefore, advise them to husband their strength and resources—to secure what they have gained. We should dissuade them from striking at that island—a measure, perhaps, fatal to them and injurious to us.

How, then, can we participate in any belligerent measure? or any act prejudicial to Spain? or any act inconsistent with our faith, our honor, or our neutrality?

Mr. President, much has been said about a pledge. It is now the policy to make an impression that some secret understanding has taken place; some unknown and mysterious arrangement, which the Government will now be bound in honor and good faith, if this mission is sent, to carry into effect.

The gentleman from South Carolina [Senator Hayne] inti-

mates strongly that this Government has given a pledge. The declaration of the President admonished neutral nations not to interfere with Spain and her colonies. It was a distinct and positive enunciation of the views of this Government. It was supposed, at the time, to mean something. By some it has been termed a protest; by others a pledge; but more properly designated as the memorable declaration. No other or different assurance has been given to strengthen the connections with these new states. But admit there was: all motive to treat on that subject now has ceased; there is now no danger, or even expectation, that the contingency will ever happen; and, if we cannot rely upon the assurance of the President that no alliance will be formed, we may rely upon the fact that no pledge has been given, by the inference arising from the fact that Mexico refused to place us on the footing of the most favored nations. If we had given the pledge to protect her independence, there would have existed no reason for the distinction taken between us and the other American states.

Among the events of greatest magnitude and most anxious concern to this country is the future condition of Cuba. We know that Colombia and Mexico have long contemplated the independence of that island. It has probably been delayed by want of concert and by our mediation to produce peace. But we now know that the fortune of that island is now to be settled. They have waited for a favorable moment to attack them with a certainty of success by the greater forces which the alliance of all the sections of the South and Mexico will procure. The final decision is now to be made, and the combination of forces and plan of attack to be formed.

With regard to the effect of that mission upon us there is no difference of opinion. It is deprecated by all as equally dangerous to our peace and their safety. What, then, at such a crisis becomes the duty of this Government? Send your ministers instantly to this diplomatic assembly where this measure is maturing. Advise with them—remonstrate—menace them, if necessary, against a step so dangerous to us and perhaps fatal to them. Urge them to be satisfied with what they have achieved—to establish their governments—consolidate their union—improve their resources. Guard them against the madness and folly of this enterprise. Warn them of the danger of provoking the allies to take part with Spain. Admonish them of their duty and obligation they owe to themselves, to us, and to all Europe—not to disturb the peace and repose of the world. Our advice will be respected and the danger averted.

hear a great deal about the infirmity of certain constitutions—not paper constitutions—we hear a great deal of constitutional infirmity. Seven years is too long for some of us to wait; and if the President can be disposed of at the end of three years, then, being extinguished, may they not, by some new turning up of trumps, expect to succeed him? Whatever the motive may have been, the fact is that there is a discrepancy in the communications of the Executive to Congress; and I will state another thing when I come to it. It is that I do believe—though I do not pledge myself to prove—but I will pledge myself to make out a very strong case, such as would satisfy a jury in the county of Charlotte—and I would put myself on that jury, and be tried by God and my country—I then say, sir, that there is strong reason to believe that these South American communications which have been laid before us were manufactured here at Washington, if not by the pens, under the eye of our own ministers, to subserve their purposes. Sir, though in one respect I am like the great Earl of Warwick, the king-maker, and a little unlike him in unmaking one king—though between two hawks I can tell which flies the higher pitch—between two dogs, which has the deeper mouth—between two horses, which bears him best—between two blades, which hath the better temper—between two girls, which hath the merrier eye—yet, in matters of law, I am like the unlearned Earl Goodlack. One thing has my attention been turned to—language—words—the counters of wise men, the money of fools—that machine and material with which the lawyer, the priest, the doctor, the charlatan of every sort and kind pick the pocket and put the fetters upon the planter and upon the slaveholder. It is by a dexterous cutting and shuffling of this pack that the business is done. They who can shuffle the whole pack are often quite ignorant of any foreign language, even of their own, and, in their attempts to write and talk finely, they only betray their poverty, like the fine ladies in the Vicar of Wakefield by their outrageous attempts to be very genteel. The first thing that struck me in these documents was how wonderfully these Spaniards must have improved in English in their short residence in the United States. It reminded me of a remark in one of Scott's novels, in the part about old Elspeth, of the Craighburnfoot: "Aye," says old Edie, "she's ar well educate woman; and an she win to her English, as I ha heard her do at an orra time, she may come to fickle us a'." These Spaniards have got to their English, and we are all fiekled. But I shall be told—not as I have been told—but as I am prepared to be told—because I have kept this thing

I trust I have shown that, if this mission is not due to courtesy, it is due to a just estimate of our essential interests. It is due to friendship, to peace, to commerce, to our principles; it can do no injury—it may do good—it *will* do good.

It was in connection with the Panama mission that John Randolph made his celebrated attack on the President and Henry Clay, whom Adams had appointed Secretary of State—as the result, many opponents of the Administration claimed, of a "corrupt bargain" whereby Adams had won the presidency.

On March 30, 1826, John Branch [N. C.] introduced a resolution in the Senate protesting against the competency of the President to have appointed ministers to the congress of Panama without the advice and consent of the Senate. It was to this motion that Randolph spoke.

BLIFL AND BLACK GEORGE

ATTACK ON ADAMS AND CLAY BY JOHN RANDOLPH

Sir, in what parliamentary debate was it that, upon a certain union between Lord Sandwich, one of the most corrupt and profligate of men in all the relations of life, and the sanctimonious, puritanical Lord Mansfield, and the other ministerial leaders, that Lord Chatham said that it reminded him of the union between Blifl and Black George? I, who am no professional man, but only a planter: I, whose reading has not gone very deep into black letter, though I do know some little of that, too; I do believe there is more wisdom, after the Bible, Shakespeare, and Milton—I do believe that in Don Quixote, Gil Blas, and Tom Jones there is contained a greater body of wisdom than is to be found in the same number of pages in the whole collection of English and foreign literature.

I will prove, if the Senate will have the patience to listen to me—I will prove to their satisfaction that the President has clapped an extinguisher on himself. If I don't prove it, I will sit down infamous and contented for the rest of my life. And how, sir, has he extinguished himself? He has done it by the aid and instrumentality of this very new ally. I shall not say which is Blifl and which is Black George. I do not draw my pictures in such a way as to render it necessary to write under them, "this is a man, this is a horse." I say this new ally has been the means of extinguishing him, and for what? Sir, we

locked up here to bring it out here in this Senate—I shall be told that these English letters were translations from the Spanish, made in the office of the Secretary of State. I hope not—I should be sorry to see any such tokens of affinity, and consanguinity, and good understanding; but they have the footprints and the flesh-marks of the style of that office.

Now, sir, John Quincy Adams coming into power under these inauspicious circumstances, and with these suspicious allies and connections, has determined to become the apostle of liberty, of universal liberty, as his father was, about the time of the formation of the Constitution, known to be the apostle of monarchy. It is no secret—I was in New York when he first took his seat as Vice-President. I recollect—for I was a schoolboy at the time, attending the lobby of Congress when I ought to have been at school—I remember the manner in which my brother was spurned by the coachman of the then Vice-President for coming too near the arms blazoned on the scutcheon of the viceregal carriage. Perhaps I may have some of this old animosity ranking in my heart, and, coming from a race¹ who are known never to forsake a friend or forgive a foe—I am taught to forgive my enemies, and I do from the bottom of my heart, most sincerely, as I hope to be forgiven; but it is my enemies—not the enemies of my country; for, if they come here in the shape of the English, it is my duty to kill them; if they come here in a worse shape—wolves in sheep's clothing—it is my duty and my business to tear the sheepskins from their backs, and, as Windham said to Pitt, open the bosom and expose beneath the ruffled shirt the filthy dowls. Adams determined to take warning by his father's errors, but in attempting the perpendicular he bent as much the other way. Who would believe that Adams, the son of the sedition-law President, who held office under his father—who, up to December 6, 1807, was the undeviating, stanch adherent to the opposition to Jefferson's administration, then almost gone—who would believe he had selected for his pattern the celebrated Anacharsis Cloots, "orator of the human race"?² As Anacharsis was the orator of the human race, so Adams was determined to be the President of the human race. He has come out with a speech and a message, and with a doctrine that goes to take the whole human family under his special protection. Now, sir, who made him his brother's keeper? Who gave him, the President of the United States, the custody of the liberties, or the rights, or the interests of South America, or any other America, save only the United States of America, or any

¹ Randolph was descended from Pocahontas.

other country under the sun? He has put himself, we know, into the way, and I say God send him a safe deliverance and God send the country a safe deliverance from his policy. I quitted the Senate ten minutes before the vote was taken. After twenty-six hours' exertion it was time to give in. I was defeated, horse, foot, and dragoons—cut up—and clean broke down—by the coalition of Blifl and Black George—by the combination, unheard of till then, of the puritan with the black-leg.

Secretary Clay, understanding from the report of the speech that Randolph had charged him with deliberately forging public documents, challenged him to a duel, which Randolph accepted. Neither contestant was wounded at the first fire, and at the second Randolph discharged his pistol in the air and had the skirt of his coat ripped by Clay's bullet. Randolph then stepped up to Clay and saying, "You owe me a coat, Mr. Clay," he extended his hand, which Clay took, saying "I am glad the debt is no greater"; and so the "high-toned" duel, as Senator Benton, Randolph's second, termed it, ended in good feeling between the duellists.

which have accompanied that struggle, and to the principles which appear to have governed the conduct of the great states of Europe in regard to it; and to the effects and consequences of these principles upon the independence of nations, and especially upon the institutions of free governments. What I have to say of Greece, therefore, concerns the modern, not the ancient; the living, and not the dead. It regards her not as she exists in history, triumphant over time, and tyranny, and ignorance; but as she now is, contending against fearful odds for being and for the common privileges of human nature.

As it is never difficult to recite commonplace remarks and trite aphorisms, so it may be easy, I am aware, on this occasion, to remind me of the wisdom which dictates to men a care of their own affairs, and admonishes them, instead of searching for adventures abroad, to leave other men's concerns in their own hands. It may be easy to call this resolution quixotic, the emanation of a crusading or propagandist spirit. All this, and more, may be readily said; but all this, and more, will not be allowed to fix a character upon this proceeding until that is proved which it takes for granted. Let it first be shown that in this question there is nothing which can affect the interest, the character, or the duty of this country. Let it be proved that we are not called upon, by either of these considerations, to express an opinion on the subject to which the resolution relates. But, in my opinion, this cannot be shown. In my judgment, the subject is interesting to the people and the Government of this country, and we are called upon, by considerations of great weight and moment, to express our opinions upon it. These considerations, I think, spring from a sense of our own duty, our character, and our own interest. I wish to treat the subject on such grounds, exclusively, as are truly American. Let it embrace everything that fairly concerns America. Let it comprehend not merely her present advantage but her permanent interest, her elevated character as one of the free states of the world, and her duty toward those great principles which have hitherto maintained the relative independence of nations, and which have, more especially, made her what she is.

At the commencement of the session the President, in the discharge of the high duties of his office, called our attention to the subject to which this resolution refers. "A strong hope," says that communication, "has been long entertained, founded on the heroic struggle of the Greeks, that they would succeed in their contest and resume their equal station among the nations of the earth. It is believed that the whole civilized world takes

CHAPTER IX

SYMPATHY WITH EUROPEAN REVOLUTIONISTS [GREEK]

Resolution of Daniel Webster [Mass.] in Sympathy with Greek Independence
—Debate on the Resolution: in Favor, Daniel Webster; Opposed, John Randolph [Va.].

IN the same message in which he announced his famous Doctrine (December, 1823) President Monroe made the revolution in Greece the subject of a paragraph, and on the 8th of December Daniel Webster [Mass.] moved the following resolution in the House of Representatives:

"Resolved, That provision ought to be made by law for defraying the expense incident to the appointment of an agent or commissioner to Greece, whenever the President shall deem it expedient to make such appointment."

The resolution was brought up for discussion in the House on January 19, 1824, when Mr. Webster spoke upon it. John Randolph [Va.] replied to him on January 24. The resolution never went into effect, although its expression, the first official utterance favorable to the independence of Greece uttered by any of the governments of Christendom, no doubt contributed toward the creation of that feeling throughout the civilized world which eventually led to the battle of Navarino and the liberation of a portion of Greece from the Turkish yoke.

RECOGNITION OF GREEK INDEPENDENCE

HOUSE OF REPRESENTATIVES, JANUARY 19-24, 1824

MR. WEBSTER.—I wish to take occasion of the struggle of an interesting and gallant people, in the cause of liberty and Christianity, to draw the attention of the House to the circumstances

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a deep interest in their welfare. Although no power has declared in their favor, yet none, according to our information, has taken part against them. Their cause and their name have protected them from dangers which might ere this have overwhelmed any other people. The ordinary calculations of interest, and of acquisition with a view to aggrandizement, which mingle so much in the transactions of nations, seem to have had no effect in regard to them. From the facts which have come to our knowledge, there is good cause to believe that their enemy has lost forever all dominion over them; that Greece will become again an independent nation."

If the sentiments of the message in respect to Greece be proper, it is equally proper that this House should reciprocate those sentiments. The present resolution is designed to have that extent, and no more. If it pass, it will leave any future proceeding where it now is, in the discretion of the executive Government.

I take it for granted that the policy of this country, springing from the nature of our Government and the spirit of all our institutions, is, so far as it respects the interesting questions which agitate the present age, on the side of liberty and enlightened sentiments. We are placed, by our good fortune and the wisdom and valor of our ancestors, in a condition in which we can act no obscure part. Be it for honor, or be it for dishonor, whatever we do is sure to attract the observation of the world. As one of the free states among the nations, as a great and rapidly rising republic, it would be impossible for us, if we were so disposed, to prevent our principles, our sentiments, and our example from producing some effect upon the opinions and hopes of society throughout the civilized world. It rests probably with ourselves to determine whether the influence of these shall be salutary or pernicious.

It cannot be denied that the great political question of this age is that between absolute and regulated governments. The substance of the controversy is whether society shall have any part in its own government. Whether the form of government shall be that of limited monarchy, with more or less mixture of hereditary power, or wholly elective or representative, may perhaps be considered as subordinate. The main controversy is between that absolute rule which, while it promises to govern well, means, nevertheless, to govern without control, and that constitutional system which restrains sovereign discretion and asserts that society may claim as matter of right some effective power in the establishment of the laws which are to regulate

it. The spirit of the times sets with a most powerful current in favor of these last-mentioned opinions. It is opposed, however, whenever and wherever it shows itself, by certain of the great potentates of Europe; and it is opposed on grounds as applicable in one civilized nation as in another, and which would justify such opposition in relation to the United States as well as in relation to any other state or nation if time and circumstances should render such opposition expedient.

Our place is on the side of free institutions. From the earliest settlement of these States, their inhabitants were accustomed, in a greater or less degree, to the enjoyment of the powers of self-government; and for the last half-century they have sustained systems of government entirely representative, yielding to themselves the greatest possible prosperity, and not leaving them without distinction and respect among the nations of the earth. This system we are not likely to abandon; and, while we shall no farther recommend its adoption to other nations, in whole or in part, than it may recommend itself by its visible influence on our own growth and prosperity, we are, nevertheless, interested to resist the establishment of doctrines which deny the legality of its foundations. We stand as an equal among nations, claiming the full benefit of the established international law; and it is our duty to oppose, from the earliest to the latest moment, any innovations upon that code which shall bring into doubt or question our own equal and independent rights.

I have a most deep and thorough conviction that a new era has arisen in the world, that new and dangerous combinations are taking place, promulgating doctrines and fraught with consequences wholly subversive in their tendency of the public law of nations and of the general liberties of mankind. Whether this be so or not is the question which I now propose to examine, upon such grounds of information as are afforded by the common and public means of knowledge.

Here Mr. Webster recited the history of the "Holy Alliance."

It is not a little remarkable that a writer of reputation upon the public law described, many years ago, not inaccurately, the character of this alliance. I allude to Puffendorf. "It seems useless," says he, "to frame any pacts or leagues, barely for the defence and support of universal peace; for by such a league nothing is superadded to the obligation of natural law,

and no agreement is made for the performance of anything which the parties were not previously bound to perform; nor is the original obligation rendered firmer or stronger by such an addition.

"If one engage to serve another, he does not set it down expressly and particularly among the terms and conditions of the bargain that he will not betray nor murder him, nor pillage nor burn his house. For the same reason, that would be a dishonorable engagement in which men should bind themselves to act properly and decently, and not break the peace."¹

How nearly Puffendorf had anticipated the case of the Holy Alliance will appear from the preamble to that alliance. After stating that the allied sovereigns had become persuaded, by the events of the last three years, that "their relations with each other ought to be regulated exclusively by the sublime truths taught by the eternal religion of God the Savior," they solemnly declare their fixed resolution "to adopt as the sole rule of their conduct, both in the administration of their respective states and in their political relations with every other government, the precepts of that holy religion, namely, the precepts of justice, charity, and peace, which, far from being applicable to private life alone, ought, on the contrary, to have a direct influence upon the counsels of princes, and guide all their steps, as being the only means of consolidating human institutions and remedying their imperfections."

This measure, however, appears principally important as it was the first of a series, and was followed afterward by others of a more marked and practical nature. These measures, taken together, profess to establish two principles which the Allied Powers would introduce as a part of the law of the civilized world; and the establishment of which is to be enforced by a million and a half of bayonets.

The first of these principles is that all popular or constitutional rights are held no otherwise than as grants from the crown. Society, upon this principle, has no rights of its own; it takes good government, when it gets it, as a boon and a concession, but can demand nothing. It is to live by that favor which emanates from royal authority, and, if it have the misfortune to lose that favor, there is nothing to protect it against any degree of injustice and oppression. It can rightfully make no endeavor for a change, by itself; its whole privilege is to receive the favors that may be dispensed by the sovereign power, and all its duty is described in the single word *submit*.

¹Law of Nature and Nations, Book II., Chap. 2, Sec. 11.

sion. This is the plain result of the principal Continental state papers; indeed, it is nearly the identical text of some of them.

I need not stop to observe, Mr. Chairman, how totally hostile are these doctrines to the fundamental principles of our Government. They are in direct contradiction; the principles of good and evil are hardly more opposite. If these principles of the sovereigns be true, we are but in a state of rebellion or of anarchy, and are only tolerated among civilized states because it has not yet been convenient to reduce us to the true standard.

But the second, and, if possible, the still more objectionable, principle avowed in these papers is the right of forcible interference in the affairs of other states. A right to control nations in their desire to change their own government, wherever it may be conjectured or pretended that such change might furnish an example to the subjects of other states, is plainly and distinctly asserted.

No matter what be the character of the government resisted, no matter with what weight the foot of the oppressor bears on the neck of the oppressed, if he struggle or if he complain he sets a dangerous example of resistance—and from that moment he becomes an object of hostility to the most powerful potentates of the earth. I want words to express my abhorrence of this abominable principle. I trust every enlightened man throughout the world will oppose it, and that, especially, those who, like ourselves, are fortunately out of the reach of the bayonets that enforce it will proclaim their detestation of it in a tone both loud and decisive. What is to be the limit to such a principle, or to the practice growing out of it? What, in any case but sovereign pleasure, is to decide whether the example be good or bad? And what, under the operation of such a rule, may be thought of our example? Why are we not as fair objects for the operation of the new principle as any of those who may attempt a reform of government on the other side of the Atlantic?

M. de Chateaubriand, in his speech in the French Chamber of Deputies, in February last, declared that he had a conference with the Emperor of Russia at Verona, in which that august sovereign uttered sentiments which appeared to him so precious that he immediately hastened home and wrote them down while yet fresh in his recollection. "The Emperor declared," said he, "that there can no longer be such a thing as an English, French, Russian, Prussian, or Austrian policy; there is henceforth but one policy, which, for the safety of all, should be adopted both

by people and kings. It was for me first to show myself convinced of the principles upon which I founded the alliance; an occasion offered itself—the rising in Greece. Nothing certainly could occur more for my interests, for the interests of my people; nothing more acceptable to my country, than a religious war in Turkey. But I have thought I perceived in the troubles of the Morea the sign of revolution, and I have held back. Providence has not put under my command eight hundred thousand soldiers to satisfy my ambition, but to protect religion, morality, and justice, and to secure the prevalence of those principles of order on which human society rests. It may well be permitted that kings may have public alliances to defend themselves against secret enemies."

If it be true that there is hereafter to be neither a Russian policy, nor a Prussian policy, nor an Austrian policy, nor a French policy, nor even, which yet I will not believe, an English policy, there will be, I trust in God, an American policy. If the authority of all these governments be hereafter to be mixed and blended, and to flow, in one augmented current of prerogative, over the face of Europe, sweeping away all resistance in its course, it will yet remain for us to secure our own happiness by the preservation of our own principles; which I hope we shall have the manliness to express on all proper occasions, and the spirit to defend in every extremity. Human liberty may yet, perhaps, be obliged to repose its principal hopes on the intelligence and the vigor of the Saxon race.

This asserted right of forcible intervention in the affairs of other nations is in open violation of the public law of the world. On the basis of the independence of nations has been reared the beautiful fabric of international law. On this principle the great commonwealth of civilized states has been hitherto upheld. There have been occasional departures or violations, and always disastrous, as in the case of Poland; but, in general, the harmony of the system has been wonderfully preserved. In the production and preservation of this sense of justice, this predominating principle, the Christian religion has acted a main part. Christianity and civilization have labored together; it seems, indeed, to be a law of our human condition that they can live and flourish only together.

It may now be required of me to show what interest we have in resisting this new system. The thunder, it may be said, rolls at a distance. The wide Atlantic is between us and danger; and, however others may suffer, we shall remain safe.

I think it is a sufficient answer to this to say that we are one

of the nations of the earth; that we have an interest, therefore, in the preservation of that system of national law and national intercourse which has heretofore subsisted so beneficially for all. Our system of government, it should also be remembered, is, throughout, founded on principles utterly hostile to the new code; and, if we remain undisturbed by its operation, we shall owe our security either to our situation or our spirit. The enterprising character of the age, our own active, commercial spirit, the great increase which has taken place in the intercourse among civilized and commercial states, have necessarily connected us with other nations, and given us a high concern in the preservation of those salutary principles upon which that intercourse is founded. We have as clear an interest in international law as individuals have in the laws of society.

But apart from the soundness of the policy, on the ground of direct interest, we have, sir, a duty connected with this subject which I trust we are willing to perform. What do we not owe to the cause of civil and religious liberty? to the principle of lawful resistance? to the principle that society has a right to partake in its own government? As the leading republic of the world, living and breathing in these principles, and advanced by their operation with unequalled rapidity in our career, shall we give our consent to bring them into disrepute and disgrace? It is neither ostentation nor boasting to say that there lies before this country, in immediate prospect, a great extent and height of power. We are borne along toward this without effort and not always even with a full knowledge of the rapidity of our own motion. Circumstances which never combined before have cooperated in our favor, and a mighty current is setting us forward which we could not resist even if we would, and which, while we would stop to make an observation, and take the sun, has set us, at the end of the operation, far in advance of the place where we commenced it. Does it not become us, then, is it not a duty imposed on us, to give our weight to the side of liberty and justice, to let mankind know that we are not tired of our own institutions, and to protest against the asserted power of altering at pleasure the law of the civilized world?

It may, in the next place, be asked, perhaps, Supposing all this to be true, what can we do? Are we to go to war, Are we to interfere in the Greek cause, or any other European cause? Are we to endanger our pacific relations? No, certainly not. What, then, the question recurs, remains for us?

Sir, this reasoning mistakes the age. The time has been, in-

combinations which had been formed in the eastern parts of Europe." Now it must be remembered that Russia was a leading party in this denunciation, yet it is notorious that within the last half-century she has again and again excited the Greeks to rebellion against the Porte, and that she has constantly kept alive in them the hope that she would one day, by her own great power, break the yoke of their oppressor. The Grecian revolution has been discouraged, discountenanced, and denounced, solely because it is a revolution.

Now it is upon this practical result of the principle of the Continental powers that I wish this House to intimate its opinion. The great question is a question of principle. Greece is only the signal instance of the application of that principle. If the principle be right, if we esteem it conformable to the law of nations, if we have nothing to say against it, or if we deem ourselves unfit to express an opinion on the subject, then, of course, no resolution ought to pass. If, on the other hand, we see in the declarations of the Allied Powers principles not only utterly hostile to our own free institutions, but hostile also to the independence of all nations, and altogether opposed to the improvement of the condition of human nature; if, in the instance before us, we see a most striking exposition and application of those principles, and if we deem our opinions to be entitled to any weight in the estimation of mankind—then I think it is our duty to adopt some such measure as the proposed resolution.

I close, sir, with repeating that the object of this resolution is to avail ourselves of the interesting occasion of the Greek revolution to make our protest against the doctrines of the Allied Powers, both as they are laid down in principle and as they are applied in practice. I think it right, too, sir, not to be unseasonable in the expression of our regard and, as far as that goes, in a manifestation of our sympathy with a long oppressed and now struggling people. I am not of those who would, in the hour of utmost peril, withhold such encouragement as might be properly and lawfully given, and, when the crisis should be past, overwhelm the rescued sufferer with kindness and caresses. The Greeks address the civilized world with a pathos not easy to be resisted. They invoke our favor by more moving considerations than can well belong to the condition of any other people. They stretch out their arms to the Christian communities of the earth, beseeching them, by a generous recollection of their ancestors, by the consideration of their desolated and ruined cities and villages, by their wives and children sold into an

deed, when fleets and armies and subsidies were the principal reliances even in the best cause. But, happily for mankind, a great change has taken place in this respect. Moral causes come into consideration, in proportion as the progress of knowledge is advanced; and the public opinion of the civilized world is rapidly gaining an ascendancy over mere brutal force. It is already able to oppose the most formidable obstruction to the progress of injustice and oppression; and as it grows more intelligent and more intense, it will be more and more formidable. It may be silenced by military power, but it cannot be conquered. It is elastic, irrepressible, and invulnerable to the weapons of ordinary warfare. It is that impassible, unextinguishable enemy of mere violence and arbitrary rule, which, like Milton's angels,

"Vital in every part,
Cannot, but by annihilating, die."

Until this be propitiated or satisfied, it is vain for power to talk either of triumphs or of repose. No matter what fields are desolated, what fortresses surrendered, what armies subdued, or what provinces overrun. In the history of the year that has passed by us, and in the instance of unhappy Spain, we have seen the vanity of all triumphs in a cause which violates the general sense of justice of the civilized world. It is nothing that the troops of France have passed from the Pyrenees to Cadiz; it is nothing that an unhappy and prostrate nation has fallen before them; it is nothing that arrests and confiscation and execution sweep away the little remnant of national resistance. There is an enemy that still exists to check the glory of these triumphs. It follows the conqueror back to the very scene of his ovations; it calls upon him to take notice that Europe, though silent, is yet indignant; it shows him that the scepter of his victory is a barren scepter; that it shall confer neither joy nor honor, but shall molder to dry ashes in his grasp. In the midst of his exultation, it pierces his ear with the cry of injured justice; it denounces against him the indignation of an enlightened and civilized age; it turns to bitterness the cup of his rejoicing, and wounds him with the sting which belongs to the consciousness of having outraged the opinion of mankind.

Sir, what has been the conduct pursued by the Allied Powers in regard to the contest in Greece? When the revolution broke out the sovereigns were assembled in congress at Laybach; and the papers of that assembly sufficiently manifest their sentiments. They proclaimed their abhorrence of those "criminal

accursed slavery, by their blood, which they seem willing to pour out like water, by the common faith, and in the name which unites all Christians, that they would extend to them at least some token of compassionate regard.

MR. RANDOLPH.—It is with serious concern and alarm that I have heard doctrines broached in this debate fraught with consequences more disastrous to the best interests of this people than any that I ever heard advanced during the five and twenty years since I have been honored with a seat on this floor. They imply, to my apprehension, a total and fundamental change of the policy pursued by this Government, *ab urbe condita*—from the foundation of the Republic to the present day. Are we, sir, to go on a crusade, in another hemisphere, for the propagation of two objects as dear and delightful to my heart as to that of any gentleman in this or in any other assembly—Liberty and Religion—and in the name of those holy words—by this powerful spell, is this nation to be conjured and beguiled out of the highway of Heaven—out of its present comparatively happy state, into all the disastrous conflicts arising from the policy of European powers, with all the consequences which flow from them? Liberty and Religion, sir!—things that are yet dear, in spite of all the mischief that has been perpetrated in their name. I believe that nothing similar to this proposition is to be found in modern history, unless in the famous decree of the French National Assembly, which brought combined Europe against them, with its united strength, and, after repeated struggles, finally effected the downfall of the French power. Sir, I am wrong—there is another example of like doctrine; and you find it among that strange and peculiar people—in that mysterious book, which is of the highest authority with them (for it is at once their gospel and their law), the Koran, which enjoins it to be the duty of all good Moslems to propagate its doctrines at the point of the sword; by the edge of the scimitar. Sir, these Moslems were encamped, where we now find them, before this country was discovered, and their title to the country which they occupy is at least as good as ours. They hold their possessions there by the same title by which all other countries are held—possession obtained at first by a successful employment of force, confirmed by time, by usage, by prescription—the best of all possible titles. Their policy has been, not tortuous, like that of other states of Europe, but straightforward; they have invariably appealed to the sword, and have held by the sword. And, in consequence of this straightforward policy, this peculiar people could boast of being the only

one of all the powers of continental Europe whose capital had never been insulted by the presence of a foreign military force.

I would respectfully ask the gentleman from Massachusetts whether in his very able and masterly argument he himself has not furnished an answer to his speech? The gentleman lays down, from Puffendorf, in reference to the honeyed words and pious professions of the Holy Alliance, that these are all surplusage, because nations are always supposed to be ready to do what justice and national law require. Well, sir, if this be so, why may not the Greek presume—why are they not, on this principle, bound to presume that this Government is disposed to do all, in reference to them, that they ought to do, without any formal resolutions to that effect? I ask the gentleman from Massachusetts whether the doctrine of Puffendorf does not apply as strongly to the resolution as to the declaration of the Allies—that is, if there be not something behind this nothing which divides this House into two unequal parts, one the advocate of a splendid system of crusades, the other the friends of peace and harmony, the advocates of a *fireside policy*; for, as has truly been said, as long as all is right at the fireside, there cannot be much wrong elsewhere?

But, sir, we have already done more than this. The President of the United States, the only organ of communication which the people have seen fit to establish between us and foreign powers, has already expressed all, in reference to Greece, that the resolution goes to express. *Actum est*—it is done—it is finished—there is an end.

If the great master of the political philosophy could arise from the dead, or had his valuable life been spared till now, he would not only have been relieved from all his terrors on the subject of a regicide peace, but also have witnessed a return of the age of chivalry and the banishment of calculation even from the estimates of statesmen which that great man could never have foreseen; for the proposition now under consideration is that something new under the sun which Solomon himself never dreamed of. Is this all? No, sir; if that was all I should not have thrown myself upon your attention. But this is not all. Cases have already been stated, to which the principle of the resolution equally applies as to that of the Greeks. In addition to those already put, I will take the case of Canada, if you will. It is known to everybody that discontents have for some time existed in the Canadian Provinces with the mother country and the measures of its government. Suppose the peo-

ple of the British colonies to the north of us undertake to throw off the yoke—I will not put the case of Jamaica, because they, unhappily, are slaveholders. Are you ready to stake the peace and welfare and the resources of this nation in support of Canadian independence? Your doctrine goes that length—you cannot stop short of it. Where, in that case, will be the assistance of Great Britain, already referred to in debate as being the only spot in the world in which liberty resides except our own country? There is another people—in valorous achievements and daring spirit on a footing with these Greeks themselves—who have achieved their independence from a bondage far heavier than that of the Greeks to the Turks. How is it, sir, that we have never sent an envoy to our sister republic of Hayti? Here is a case that fits—a case beyond dispute. It is not that of a people who have “almost” (aye, sir! *almost*, but not *altogether*)—who have *almost* but perfectly achieved their independence. To attempt to show that these cases are equally within the range of the principle of the resolution would be to show a disrespect to the intellects of those around me. The man who cannot pursue the inference would not recognize my picture, though, like the Dutchman’s painting, were written under it, “*This is the man, that the horse.*”

Among other cases forcibly put by the gentleman from Massachusetts, why he would embark in this incipient crusade against Mussulmen, he stated this as one—that they hold human beings as property. Ah, sir, and what says the Constitution of the United States on this point? Unless, indeed, that instrument is wholly to be excluded from consideration—unless it is to be regarded as a mere useless parchment, worthy to be burned, as was once actually proposed. Does not that Constitution give its sanction to the holding of human beings as property? Sir, I am not going to discuss the abstract question of liberty or slavery, or any other abstract question. I go for matters of fact. But I would ask gentlemen in this House who have the misfortune to reside on the wrong side of a certain mysterious parallel of latitude to take this question seriously into consideration—whether the Government of the United States is prepared to say that the act of holding human beings as property is sufficient to place the party so offending under the ban of its high and mighty displeasure?

Sir, the objections to this resolution accumulate as I proceed—*vires acquirit eundo*.¹ If I should attempt to go through with a statement of them all, and had strength to sustain me, I

“‘It gathers powers in its going.’”

should do what I promised I would not do—I should worry and exhaust the patience of this committee.

Sir, what are we now asked to do? To stimulate the Executive to the creation of embassies. And what then? That we, or our friends, may fill them. Sir, the sending ambassadors abroad is one of the great prerogatives, if you will, of our Executive authority; and we are, I repeat, about to stimulate the President to the creation of a new, and, I must be permitted to say, an unnecessary, embassy—a diplomatic agency to Greece—that we, or our friends, may profit by it. For, sir, it is a matter of notoriety that all these good things are reserved for men who either have been or are *de facto* members of this or of the other House. No doubt we shall be able to find some learned Theban, or some other Boeotian, willing to undertake this mission—perfectly willing to live upon the resources of the people rather than his own. But then recurs the old-fashioned question, *Cui bono?* His own, undoubtedly, but surely not that of this nation.

But it is urged that we have sent and received ministers from revolutionary France. True, we have; but what was revolutionary France? Our own ancient and very good ally; a substantive power, if any such exist on the continent of Europe, whose independent existence no one could doubt or dispute, unless, indeed, the disciples of Berkeley, who deny that there is any such thing as matter. Sir, let these Greeks send a minister to us, and then we will deliberate on the question whether we will accredit him or not. If, indeed, there was a minister of Greece knocking at the door of the President’s ante-chamber for admittance, and that admittance was denied, the question of Grecian independence would be more legitimately before us; but I greatly doubt if even that case would be sufficient to call for the interference of this House.

But there is one aspect of this question which ought to be conclusive on the minds of all, viz: That Russia, whose designs on Turkey have been unremittently prosecuted ever since the days of Peter the Great for more than a century; that Russia, allied to the Greeks in religious faith—identified in that respect; that Russia, unassailable territorially, and dividing with us (according to the gentleman from Massachusetts) the dread and apprehension of the Allied Powers—even Russia, in “juxtaposition” (to use the words of the mover of the resolution) to Turkey—even Russia dare not move. But we, who are separated first by the Atlantic Ocean and then have to traverse the Mediterranean Sea to arrive at the seat of conflict—we, at the distance of five thousand miles, are to interfere in this quarrel

—to what purpose? To the advantage solely of this very colossal power which has been held up as the great object of our dread, and of whom it is difficult to say whether it is more to be dreaded for its physical force or its detestable principle.

Permit me, sir, to ask why, in the selection of an enemy to the doctrines of our Government, and a party to those advanced by the Holy Alliance, we should fix on Turkey? She, at least, forms no party to that alliance; and I venture to say that, for the last century, her conduct, in reference to her neighbors, has been much more Christian than that of all the “Most Christian,” “Most Catholic,” or “Most Faithful” Majesties of Europe—for she has not interfered, as we propose to do, in the internal affairs of other nations.

But, sir, we have not done. Not satisfied with attempting to support the Greeks, one world, like that of Pyrrhus or Alexander, is not sufficient for us. We have yet another world for exploits: we are to operate in a country distant from us eighty degrees of latitude, and only accessible by a circumnavigation of the globe, and to subdue which we must cover the Pacific with our ships, and the tops of the Andes with our soldiers. Do gentlemen seriously reflect on the work they have cut out for us? Why, sir, these projects of ambition surpass those of Bonaparte himself.

It has once been said of the dominions of the King of Spain—thank God! it can no longer be said—that the sun never set upon them. Sir, the sun never sets on ambition like this: they who have once felt its scorpion sting are never satisfied with a limit less than a circle of our planet. I have heard, sir, the late comuscation in the heavens attempted to be accounted for by the return of the lunar cycle, the moon having got back into the same relative position in which she was nineteen years ago. However this may be, I am afraid, sir, that she exerts too potent an influence over our legislation, or will have done so if we agree to adopt the resolution on your table. I think about once in seven or eight years, for that seems to be the term of our political cycle, we may calculate upon beholding some redoubted champion—like him who prances into Westminster Hall, armed cap-a-pie, like Sir Somebody Dimock, at the coronation of the British king, challenging all who dispute the title of the sovereign to the crown—coming into this House, mounted on some magnificent project such as this. But, sir, I never expected that, of all places in the world (except Salem) a proposition like this should have come from Boston!

Sir, I am afraid that, along with some most excellent attri-

butes and qualities—the love of liberty, jury trial, the writ of habeas corpus, and all the blessings of free government, that we have derived from our Anglo-Saxon ancestors, we have got not a little of their John Bull, or rather John Bull Dog spirit—their readiness to fight for anybody and on any occasion. Sir, England has been for centuries the gamecock of Europe. It is impossible to specify the wars in which she has been engaged for contrary purposes; and she will, with great pleasure, see us take off her shoulders the labor of preserving the balance of power. We find her fighting now for the Queen of Hungary—then for her inveterate foe, the King of Prussia—now at war for the restoration of the Bourbons—and now on the eve of war with them for the liberties of Spain. These lines on the subject were never more applicable than they have now become—

"Now Europe's balanced—neither side prevails;
For nothing's left in either of the scales."

If we pursue the same policy, we must travel the same road and endure the same burdens under which England now groans. But, glorious as such a design may be, a President of the United States would, in my apprehension, occupy a prouder place in history who, when he retires from office, can say to the people who elected him, I leave you without a debt, than if he had fought as many pitched battles as Cæsar, or achieved as many naval victories as Nelson. No, sir. Let us abandon these projects. Let us say to those seven millions of Greeks: "We defended ourselves when we were but three millions against a power in comparison to which the Turk is but as a lamb. Go and do thou likewise." And so with respect to the governments of South America. If, after having achieved their independence, they have not valor to maintain it, I would not commit the safety and independence of this country in such a cause.

Let us adhere to the policy laid down by the second, as well as the first, founder of our Republic—by him who was the Camillus, as well as the Romulus, of the infant state;—to the policy of peace, commerce, and honest friendship with all nations, entangling alliances with none: for to entangling alliances we must come if you once embark in projects such as this.

Government had violated no principle of international law, saying: "This sympathy (for nations struggling for institutions like their own), so far from being necessarily a hostile feeling toward any of the parties to these great national struggles, is quite consistent with amicable relations with them all."

He did not forbear gratuitous remarks offensive to the dignity of Austria.

"The power of this Republic, at the present moment, is spread over a region one of the richest and most fertile on the globe, and of an extent in comparison with which the possessions of the house of Hapsburg are but as a patch on the earth's surface."

In a letter to his friend, George Ticknor, Webster gave the following as his reasons for the "high hand" he had taken in the matter:

"If you say that my Hülsemann letter is boastful and rough, I shall own the soft impeachment. My excuse is twofold: 1. I thought it well enough to speak out, and tell the people of Europe who and what we are, and awaken them to a just sense of the unparalleled growth of this country. 2. I wished to write a paper which should touch the national pride, and make a man feel sheepish and look silly who should speak of disunion."

This paper fulfilled both objects, greatly angering Austria and rousing to a high pitch the national pride of the United States. There was a strong desire to bring to America the exiled Hungarian leader, Louis Kossuth. On February 17, 1851, Henry S. Foote [Miss.] moved in the Senate a joint resolution empowering the President to send a ship to Turkey, which was harboring the exiles, in order to fetch Kossuth and his companions to this country. This was adopted on February 26, and concurred in by the House on March 3. Kossuth arrived in New York on the *Mississippi* in December, and met with an enthusiastic reception from the city.

On the first day of the session of Congress in December Senator Foote offered a joint resolution for the

CHAPTER X

SYMPATHY WITH EUROPEAN REVOLUTIONISTS [HUNGARIAN AND IRISH]

American Sympathy with the Hungarian Revolutionists—President Taylor Sends Secret Agent to Hungary—His Report; Controversy Over It by Baron Hülsemann, Austrian *Chargé d'Affaires*, and Daniel Webster, Secretary of State—Government Brings Louis Kossuth, Hungarian Revolutionist, in a War Vessel to America—Henry S. Foote [Miss.] Moves in the Senate that the Government Give Kossuth a Reception—John P. Hale [N. H.] Moves to Amend the Resolution by Expressing Sympathy with "Victims of Oppression Everywhere"—Debate on Resolution and Amendment: William C. Dawson [Ga.], Hale, Foote, Lewis Cass [Mich.]—Resolutions Are Withdrawn—Resolution of Senator Foote to Intervene with Great Britain in Behalf of Condemned Irish Patriots—Debate: in Favor of Intervention, General James Shields [Ill.], William H. Seward [N. Y.], Senator Cass; Opposed, George E. Badger [N. C.]—John H. Clarke [B. I.] Introduces in the Senate Resolutions against Intervention in Foreign Affairs; Substitutes Are Offered by Senators Seward and Cass; Debate on the Subject Between Clarke, in Favor of Non-Intervention, and Cass and Seward, in Favor of Intervention.

DURING the time when Hungary was striving for independence from Austria many refugee Hungarian patriots had come to America in 1848-49, and their presence and appeals for aid concentrated the sympathy which this country has always felt toward republicans throughout the world into a demand that the Government do what it could in helping the revolutionists. In June, 1849, President Taylor sent a secret agent to Hungary to obtain information of the situation with a view to recognizing the independence of the country. This information Taylor laid before Congress, whereupon the Austrian *chargé d'affaires*, Baron Hülsemann, entered protest to the State Department. About this time Fillmore succeeded to the Presidency, and Webster to the head of the department. In December, 1850, Webster in an able paper argued that the United States

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reception of Kossuth by the United States Government. On the next day (December 3, 1851) a debate occurred on the resolution, which is noteworthy because of the manner in which the irrepressible question of slavery was obtruded in a matter with which it had no seeming connection. An amendment offered by John P. Hale [N. H.], apparently innocent of all design to bring forward the burning issue but really intended to do so, precipitated an angry discussion, in which Hale was denounced for his duplicity by Senator Foote and Lewis Cass [Mich.].

William C. Dawson [Ga.] began the debate by opposing official recognition of Kossuth.

THE RECEPTION OF KOSSUTH

SENATE, DECEMBER 3, 1851

SENATOR DAWSON.—I see nothing in the character of this distinguished individual which should make the Government of the United States get up a great pageant on his account, and distinguish him from all other men who have ever lived. Has he ever been connected with our institutions? Has he ever rendered any particular service to this country to entitle him to this mark of distinction? Not at all. It is true he is a great man, but he is not greater than many men who now live, and who have lived. His position is such as to call into exercise our sympathies for him and his associates as men. That sympathy this Government has already shown to an extent almost unparalleled by sending one of the national vessels to receive him and his associates, if they were willing to come to this country. Have we not done enough to show our sympathies and our good feelings? I think we have. Against the man's character and course I utter not a word. The American heart is open for his reception. It is the people who will receive him. It is the people and not the Government that ought to receive him. Lafayette, when he came to this country, was received in a manner which was justifiable on the part of the Government of that day, because he was connected with the Revolution which gave us the liberties which we enjoy.

SENATOR HALE.—I move to amend the resolution by adding the following words:

"And also to assure him and his associates in exile of the

sympathy of the Congress and people of the United States with the victims of oppression everywhere, and that their earnest desire is that the time may speedily arrive when the rights of man shall be universally recognized and respected by every people and government of the world."

If this be added to the resolution I think it will obviate the objection of the Senator from Georgia; because then, instead of being personal to Kossuth, it would apply to the victims of oppression everywhere, without any distinction.

SENATOR FOOTE.—Sir, the gentleman from Georgia seems to overlook the fact that there is a great struggle going on at this moment in all parts of the civilized world between the principles of freedom and the principles of slavery. The tyrants of the earth have combined for the overthrow of liberty. In some instances open attempts are made to break down political and religious freedom. In others the means employed by the enemies of freedom are more disguised and insidious, but not at all less dangerous. At such a moment does it behoove the American people to join the side of despotism or to stand by the cause of freedom? We must do one or the other. We cannot avoid the solemn alternative presented. Those who are not for us are against us. Those who are not for freedom are for slavery.

The eminent personage [Louis Kossuth] whose claims upon our respect and sympathy I have endeavored to make manifest has commended himself especially to my regard by the delicate and discreet forbearance which he has elsewhere exercised in avoiding all indecent interference with the domestic institutions of other countries than his own. While in monarchical England he did not hesitate to avow his decided partiality for republican institutions, yet no one can accuse him of uttering a word upon any occasion which was in the least degree calculated to awaken popular discontent or to foment civil discord; and I venture to predict, sir, that if the vicious and contriving factionists who have so fiercely struggled for several years past to disturb the domestic quiet of the Republic should attempt to enlist Louis Kossuth in their unholy designs, they will incur such a withering rebuke from his lips as will make them wish, for a moment, at least, that the Almighty in his providence had never permitted such miscreants to pollute the pure air of heaven with their pestilential breath.

SENATOR HALE.—What is this amendment? Why, that we shall assure to this illustrious man, as dear to my affections as to his—dear to my affections for the principles which he has advocated, and for the maintenance and advocacy of which he

is now an exile—that we shall assure him and his associates in exile of the sympathy of the Congress and the people of the United States not only with them but with the victims of oppression everywhere. Is there any intimation there that the honorable Senator means to find fault with? Does he mean to intimate that in this land there is a place where the rights of man are not respected and recognized? If he does, he utters a fouler slander upon the country and upon some of the States of the Confederacy than I would allow myself to utter in this place.

I wish Kossuth to come here, in his very person, a living reproach to despotism of whatever name and wherever it may be. I want him to go about among the people of the land, the living advocate of the rights of man, so that everybody, wherever he may be, who feels in his own breast that he is guilty of any invasion or infraction of these rights when he looks into the face of Kossuth may see there the lineaments that speak out reproach. That is the reason why I honor him, and that is the reason why I wish him to come here.

There are other victims of oppression. There are the victims of English oppression. The people of this country have been moving lately to get the kind offices of this Government to interfere in behalf of O'Brien, Mitchell, and their associates. I want this resolution to reach them. I want to let it go just exactly as far as the history of the United States goes. I want it to go, as was eloquently said by a distinguished orator of this country to Lafayette when he was here, speaking to him of the voice of Washington that was raised in his behalf, that that voice of sympathy could reach him even in the dungeons of Austria. Well, if there are victims of oppression in the dungeons of Austria, or of any other government on earth, I want this expression of the sentiments of the American people to be broad enough to reach them. I want Kossuth, and Mitchell, and O'Brien, and everybody else that is suffering in the great cause of human rights and human liberty, to feel that here, without division and without partiality, there is the entertainment of an honest and earnest and zealous respect for the course they have pursued.

Owing to the opposition which Foote met, both from Southerners and Northerners, he withdrew his resolutions, whereat Kossuth openly expressed his opinion of a Government that had invited him to be its guest and almost immediately afterward had refused him and his cause official recognition.

SYMPATHY WITH IRELAND

The question of extending sympathy to the Irish victims of English oppression, to which Senator John P. Hale [N. H.] referred in the previous debate, had been brought forward in the Senate on December 2, 1851, by Henry S. Foote [Miss.] in a joint resolution "expressive of the sympathy of Congress for the exiled Irish patriots, Smith O'Brien and Thomas F. Meagher, and their associates." This resolution authorized a correspondence in which appeal should be made to the magnanimity of the British Government and people requesting the liberation of these persons from their present confinement and offering to receive them "upon the hospitable shores of the United States."

On January 29 General James Shields [Ill.] offered in the Senate this amendment to the resolution:

"Disclaiming all intention to interfere in the internal affairs of the Kingdom of Great Britain and Ireland, we would regard this act of clemency as a new proof of the friendly disposition of the British Government toward our Republic, and as calculated to strengthen the bonds of affection now happily existing between the people of the United States and of the United Kingdom of Great Britain and Ireland."

On February 7 General Shields supported the motion and his amendment in an eloquent speech. William H. Seward [N. Y.] and Lewis Cass [Mich.] spoke in similar vein in favor of the motion, and George E. Badger [N. C.] opposed it.

LIBERATION OF THE IRISH PATRIOTS

SENATE, FEBRUARY 7-11, 1852

GENERAL SHIELDS.—Mr. President, I have prepared the amendment which I now take the liberty of offering as a substitute for the original resolution offered by a Senator [Mr. Foote], now no longer a member of this body. I am exceedingly anxious for its passage because, as it now stands, I think it preserves the dignity of this Government and can give no reasonable offence to the English Government; and I firmly believe it will effect a

humane and Christian object—the liberation of those unfortunate men from captivity. I may as well state that O'Brien, Meagher, and O'Donahoe were convicted of treason and sentenced to be hanged, drawn, and quartered—which sentence was afterward commuted, by virtue of an express statute, into transportation for life. Mitchell, Martin, and O'Dougherty were convicted of sedition—an offence made felony and a species of treason by a statute expressly enacted for the occasion, and they were sentenced to be transported—Mitchell for fourteen years and Martin and O'Dougherty for ten years each. These six persons are now in captivity in Van Diemen's Land. The punishment is not so cruel as it is degrading; but, to men like these, death would be more acceptable than degradation. And what can be more degrading than to confine, and in a measure confound, such noble spirits with the vilest convicted criminals of the British empire? If this resolution has the effect, as I hope it will, of restoring these Irish patriots to liberty, it will be a work of beneficence, and the action of this Government will be to them like the interposition of an angel of mercy. But if it even fails to accomplish this object, it will still be successful in another respect: it will sound like a voice of encouragement to the captives—the voice of a great people. It will give consolation and hope; and, if it waft them nothing but hope, it will lighten their captivity and brighten their dreary existence in that far-distant land. As one of the friends of these Irish exiles, I take this occasion to state to the Senate—and I think I interpret the wishes of all their friends when I make this statement—that if they have the good fortune to ever reach our shores, we have no wish to see them welcomed with any public demonstration or display like that which has been just rendered to the illustrious Kossuth. We ask nothing of that kind. We wish to see them receive no other welcome or reception than that which the generous American heart always renders to the noble unfortunate.

In the passage of this resolution all we declare is that the liberation of these Irish patriots would be gratifying to the people of the United States. Surely there can be no reasonable objection to this. We ask that they be permitted to emigrate to this country—to incorporate themselves with our citizens, and live here quietly and peacefully under the protection of our free Constitution. There are strong natural reasons for the interest which the people of this country take in the fate of Ireland and Irishmen. Not only are millions of native Irishmen citizens of this country at this time, but Irish blood runs warmly in the

veins of more than half the people of the United States. There is still another and a higher view of this matter, and one which seems to me to rise above all the etiquette of diplomacy. In one sense the people of this country and of Great Britain and Ireland may be considered as one great distinct family of the human race, connected by strong natural and traditional relations, which exist to the same extent among no other people on earth—blood, language, literature, the memories of the past and the hopes of the future. America may be considered not only the second home but the ultimate home of millions who are born under the British flag. How, then, can it even be suspected that under all these circumstances an application of this kind could offend the British Government? So far from being offensive, sir, in my humble opinion it is complimentary to that Government. The British Government has nothing to gain by continuing these men in confinement, and nothing to risk in their liberation. It has nothing to fear from Irish agitation now. Ireland is at this moment as feeble, helpless, and hopeless as the most anti-Irish heart can desire. Her nationality is gone; her hopes are crushed; her ancient generous race is becoming extinct. She has no future—or, if she has, it is a dark one. At such a time, and under such circumstances, how can any government, great and powerful as the English Government is, retain the last defenders of such a nation in captivity?

At this age of the world I think it is generally admitted that to punish a man for a political offence, without a very strong political necessity, is not an act of justice or self-defence, but, on the contrary, an act of cruel, useless, and impolitic vengeance. The British Government is too proud and powerful to stoop to the wicked weakness of vengeance. I think the present a very favorable time for moving in this affair and for preferring this request. The most friendly relations exist at this time between this country and Great Britain. There is a strong feeling of mutual regard and common interest, and, perhaps I may add, a sense of common danger uniting the people of both countries at this moment in close and intimate connection. The English people, so far as I can observe, are beginning to appreciate the character, resources, and institutions of this country, and to look with something like admiration upon the growth of this continental republic. Not only England but the world begins to see and acknowledge that this nation is destined to future supremacy.

The example of England herself would be, perhaps, the best argument we could use in favor of this resolution, or to enforce

this request. Her history, in fact, is full of examples, not only of intercession but of interference in the internal affairs of other nations. England interfered directly in behalf of Kosuth and his companions—while we merely intercede for Smith O'Brien and his associates. She defended these Hungarians against Austria and Russia; we only appeal to her own clemency for the liberation of Irish patriots. She contributed to the liberation of Austrian subjects, although they are, in a certain sense, still dangerous to the Austrian Government. We simply request the liberation of British subjects whose freedom, in my opinion, at this time will serve to strengthen the English Government. We all recollect the universal delight with which the American people witnessed the first interference of England in behalf of the Hungarian exiles. When the British fleet appeared at the mouth of the Dardanelles—when the Red Cross of England joined the Crescent of Mahomet, and blazed in defence of the exile and the unfortunate—all America, with one voice, shouted glory and honor to the flag of Old England. She acted gloriously on that occasion. Her conduct called forth the applause of the liberal world. But now we have to moderate this applause when we think of Van Diemen's Land. We give her credit for her generosity abroad, but we are sorry to be compelled to refuse her equal credit for her clemency at home. Patriotism cannot be a virtue in Hungary and a crime in Ireland. England may be able to make some distinction between the two cases, but the world will refuse to recognize it. She will raise her national character in the estimation of the world—she will establish her disinterestedness before the tribunal of history and posterity—if she follow up her conduct toward the Hungarians with the liberation of the Irish exiles. As it is, her conduct is severely criticized on the continent of Europe. The Austrians and Russians especially accuse her of hypocrisy—of violating the great law of moral and political consistency—of traversing half the globe in defence and support of Hungarian patriots, while at the same time she proscribes, banishes, and imprisons Irish patriots. They say English philanthropy is like the philanthropy of the elder Mirabeau, who was styled "*The Friend of Man*," for his universal benevolence, while he practiced at the same time, within the bosom of his own family, the most cruel, heartless, and unrelenting tyranny.

This is the kind of indictment the Continent prefers against England at this time. I am not prepared to endorse it. On the contrary, I am thoroughly convinced she will avail herself of the first favorable opportunity to clear her reputation from any

such reproach. I am inclined to think she will feel thankful to this Government for supplying her with a fair occasion, a graceful pretext, to perform a humane and politic act. The world will then see that she is not governed, either in her foreign or domestic policy, by jealousy of Russia or hatred of Austria, but by a great principle of philanthropy and humanity.

If we weigh the conduct of these Irish patriots, not in legal but in moral scales, we will find much to justify their attempt. They loved their native country. There is no moral guilt in this. On the contrary, the love of country is one of the noblest sentiments of our nature. When this sentiment fades from the soul, the soul has lost its original brightness. In Ireland, however, this sentiment is almost considered a political offence. There is something so unnatural in this state of things, that what the English law denounces as treason the Irish heart recognizes as patriotism. An Irish patriot hears himself pronounced guilty in what is called the sanctuary of justice, while he feels in the sanctuary of his heart that he stands guiltless before God and his country.

Poor Ireland! Her history is a sad one. It is written in the tears and blood of her children. Her sons have been so long accustomed to injustice that they regard themselves as aliens and outcasts in the very land that God gave them as a heritage. Yet they love their country with all the fervor of the Irish heart. The more she suffers the more they love her. This love has become almost a part of their religion and of their fervent devotion to their God. As her own sweet poet [Thomas Moore] has so truly and beautifully said:

"Her chains as they rankle, her blood as it runs,
But make her more painfully dear to her sons."

Ireland has always been an incorrigible and irreconcilable rebel against power; but when her oppressors became unfortunate she became loyal; when they became friendless and helpless, she drew the sword and poured out her blood for them in the hour of their adversity. The Stuarts at the head of the empire were her cruel and constant oppressors; yet Ireland sacrificed herself for the last monarch of that ungrateful race, when, abandoned by his favorites and betrayed by his family, he fled from his throne—an exile, a wanderer, friendless and unfortunate.

I hope it will be allowable on this occasion to refer to the conduct of the Irish in your own glorious Revolution. History attests that during that whole period of trial and struggle a

single Irish Tory was not to be found in the thirteen colonies. Both here and in Ireland, at home and abroad, the Irish heart declared openly and fearlessly in favor of the colonies. Who defended their cause in the British Parliament with more eloquent ability than Edmund Burke? And who defended it in the hour of danger with more unselfish devotion than the brave Montgomery? The Irish were true to this country then, and they are true to it still; they have always proved true, in word and deed, to the republican institutions of this country.

I would appeal to the people of England for justice to Ireland as quickly at this moment as I would to any other people on earth except the American people. Ireland has never been governed by the English people. It has been governed by an Anglo-Irish oligarchy—an oligarchy that has had no instinct but selfishness; no passion but the preservation of its own class. The government of Ireland was the government of a *caste*,—the very abstraction of an evil government. Such a government would have ruined any other country as well as Ireland. There was certain ruin in the very principle upon which it governed. That principle was to anglicize Ireland—to force an English government on the Irish race, an English church on Irish consciences, and English habits on Irish hearts,—in a word, to transform Irishmen into Englishmen. Of course the experiment has failed.

There is a national as well as a personal individuality. No people can be improved or elevated except through the medium of their own nationality. To develop a people we must respect the scruples of the national conscience—the virtues of the national heart, and the aspirations and even prejudices, of the national mind. National varieties are as necessary to improve and develop the human race as individual varieties. And political systems ought to be as various as the varieties of national character. A political system to improve and develop a people must grow out of the habits and circumstances of that people. It must be the natural product of the country.

The first requirement for Ireland is religious liberty; not toleration, but full, equal, absolute religious liberty. She will never be satisfied until she obtains this boon. There is nothing so dangerous to a government in a perilous crisis as a powerful, dissatisfied religious party, like the Roman Catholic party of the British Empire; and nothing so harmless as religious sects or parties, when a government abolishes all religious distinctions and gives full, perfect, and absolute religious liberty to all. If you want to put down religious agitation and destroy clerical

influence, give the people equal and universal religious liberty. This is a truth very well understood in this country, yet, strange to say, it has hitherto escaped the penetration of the first statesmen of Europe.

Ireland also requires political liberty and an equitable share of all the advantages of the British Government and British Empire, and above all, the Irish people require an absolute interest in the soil of their country. As it is, Ireland may be considered a vast warren—a hunting ground for absentee nobility; and, unhappily, the spoils of the chase are the hearts, hopes, and lives of the Irish peasantry. I have long watched and waited to see some great English statesman arise, who could grapple with this monster difficulty.

But, after all, Ireland must be the great agent of her own regeneration; she must not depend upon England, or upon America, or upon the Continent. If she looks to the absolutists of Europe for support, as I apprehend she does at this moment, she will be deceived and disappointed and betrayed. There is not a despot in Europe, large or small, from the Czar of Russia to the King of Naples, who would not, at this moment, sell and sacrifice Ireland and all her hopes to purchase the friendship of the English Government.

I know it is difficult to form a correct judgment of the true policy of a distant nation; but, after long reflection upon this subject, I have arrived at the conclusion that the present policy of Ireland is to abandon all idea of a political separation from England. Her own nationality is gone. She can never recover or restore either her old language or her old nationality. If she were an independent nation this moment, her great effort should be to build up a new nationality conformable to her present moral, social, and political condition. Her policy now is to make the most of her present political connection, and to avail herself of all the political, commercial, industrial, and intellectual advantages of the British Empire. She should cooperate on all occasions with the most liberal English party. She should throw her whole weight into the scale of liberalism. Her movement should be an imperial one; and by acting in this manner she would raise and regenerate herself in contributing to elevate and liberalize the whole empire.

SENATOR SEWARD.—I am told that we may lawfully sympathize, as individuals, in the misfortunes of these unhappy men, and of their more unhappy country; but that to us as a political body—a state or nation—or as the representatives—the government of a nation—such sympathy is forbidden. This seems

what is asked, as the British Government is free to reject our application.

Sir, this proposition involves a view of the relations of the parties concerned. The people of Ireland are affiliated to us, as we are to the people of Great Britain. Surely there can be no offence given by a younger member in offering mediation between the elder brethren of the same family upon a point of difference between them.

But what if Great Britain should take offence at this suggestion? What then? Why, then England would be in the wrong, and we in the right. The time has passed when this country can be alarmed by fear of war in such a case. No one will confess that he indulges any such apprehension. Sir, Great Britain will not take offence. She knows that her greatness and her fame are well assured. She has no motive whatever to affect wounded sensibility. She will receive this suggestion in the same fraternal spirit in which it is made. Nor will she refuse the boon. She knows as well as we do that rigor protracted beyond the necessity of security to the state reacts. She knows full well that for the present, at least, sedition sleeps profoundly in Ireland, and that the granting of this appeal will protract its slumbers. Great Britain will be thankful to us for our confidence in her generosity, for her motto is "*Parcere subjectis et debellare superbis*."

The points of Senator Cass, who followed, will be found as quoted by Senator Badger, the next speaker.

SENATOR BADGER.—After every examination which I have been able to give this subject, I cannot persuade myself that it is proper that the Congress of the United States should pass the resolution in any of the forms in which it has been proposed to our consideration. If I could vote for the resolution in any form, I would undoubtedly vote for it in that which it has assumed upon the suggestion of the honorable Senator from Illinois [Mr. Shields]; and if anything could persuade me to forego the exercise of my own deliberate judgment and put myself under the mastery of those feelings which are apt to be excited by discussions of this kind, to favor the adoption of the resolution, it would be the speech delivered on last Saturday by the honorable Senator from Illinois, full as it was of everything that can do honor to a man's head and heart.

But whatever my feelings of attachment, consideration, or

"To spare the abject and war down the proud."

to me equivalent to saying that we may indulge sentiments of generous compassion, but we shall never carry them into beneficent action. The sympathy of the several members of this Senate, or of this Congress, or of the individual citizens of the United States will be unavailing. If that sympathy is truly felt by the nation, it can only be effectually expressed in the manner in which national sympathies and determinations of the national will are always made effective—by the action of the Government. And, sir, let me say that there is only one code of morals for mankind, and its obligations bind them equally, whether they be individuals, subjects, citizens, states, or nations.

I shall be told that we may not intervene in this which is a domestic affair of a foreign government. It is true that we may not intervene in the affairs of any government for unjust purposes, nor can we intervene by force for even just or benevolent purposes. But this is the only restraint imposed on us by the law of nations. That law, while it declares that every government has the absolute right to deal with its own citizens, according to its own laws, independently of any other, affords a large verge and scope for the exercise of offices of courtesy, kindness, benevolence, and charity. It is Montesquieu who says that "the law of nations is founded upon the principle that every nation is bound in time of peace to do to every other nation all the good it possibly can, and in time of war the least evil it possibly can consistently with its own real interests." It is upon this humane principle that diplomatic intercourse is maintained among the civilized nations of the earth, all of whom are by the law of nations regarded as constituting one great commonwealth.

But, Mr. President, it will be said that, if we adopt this resolution, it will, however harmless it be in itself, furnish a precedent for mischievous intervention, either by ourselves in the affairs of other states or by other states in our affairs hereafter. To admit this argument is to admit distrust of ourselves. We certainly do not distrust our own sense of justice. We do not distrust our own wisdom. So long as we remain here, then, we shall be able to guard against any such abuse of this precedent. Let us also be generous instead of egotistical, and let us believe that neither wisdom nor justice will die with those who occupy these places now, but that our successors will be as just and as wise as we are. So far as the objection anticipates an abuse of this precedent by foreign states, I have only to say that if a foreign state shall ask of us just what we now propose, and no more, we shall have no difficulty and no ground of complaint. If it shall ask more, we shall be free to reject

sympathy for the other nations and races of the world—and I trust I am not deficient in those feelings of consideration and sympathy—I must prefer my own country, my own race, the people and institutions among which I was born and in which I have been reared, to all other nations and all other races in the world. I cannot, therefore, consent to give my support to any measure, however commended to us by high considerations of sympathy, which, in my judgment, is capable of having an unjust and injurious operation upon the country to which I belong.

This resolution proposes that the Congress of the United States shall express, and that the Congress of the United States shall declare, and that we feel it our duty to express an earnest desire that the Queen of Great Britain will extend her royal clemency to certain Irish prisoners now confined, under a sentence, to Van Diemen's Land. Now, in the first place, I do not feel myself called upon by my duty as an American Senator to express any sentiment upon that subject. But that would be—that is—the smallest of the difficulties that press upon my mind. Though I cannot recognize the duty, yet if no evil consequences could be readily imagined to result from it, I might, nevertheless, be willing to give expression to the wish. But, sir, I ask you, who have had no little experience in the state and condition of our foreign affairs, and the management of our diplomatic relations with other countries, and the reciprocal operations of proceedings of this kind, whether we can affirm that there is no danger from the precedent which we are now setting?

My honorable friend from Michigan [Mr. Cass], in the remarks which he addressed to the Senate—remarks conceived and expressed, I will not say with a force and clearness that were not usual with him but certainly with great force and clearness—has laid down some propositions to which I wish to invite the attention of the Senate, and to show, if I can, that the mode by which he undertakes to defend the proceedings now recommended to us is one that must, or, at all events, one that may, lead to mischievous counterinterference with our concerns; and that the suggestions which he has thrown out for the purpose of dissipating the fear of such a result, when properly considered, are entitled to no weight.

First, the Senator laid down a proposition in these words: "Mr. President, a great change has taken place in the opinions of the world on the subject of political offences. They nowhere carry with them reproach or shame. They violate, indeed, existing laws; but they generally originate in the most praise-

worthy motives, and are pursued at the hazard of every earthly good, as Washington and a host of other industrious men in ancient and modern days pursued their patriotic enterprises."

Again, he says:

"They" (alluding to political offenders) "are recognized as being unfortunate but not vicious. Indeed, they are often noble men, as are those whose case engages our attention, and who deserve the kind interest of the world, both from their motives and their character, and also from the position, once high, but now low, to which they have fallen, and in consequence of an effort, made, not for themselves, but for their country. It cannot be—there is not the slightest danger of it—that such a national application will ever be made, in any case but in one like this, which is as far from moral guilt as innocence is from crime. Let no one fear that this example will ever be used, or abused, for the purpose of intermeddling in the ordinary criminal proceedings of other powers."

Again, the honorable Senator says:

"As to improper interference, it seems to me an entire misconstruction of the term to apply it to a case like this. It is not interference at all; it is intercession. It is a simple request, made from the best motives, in the best spirit, and presented in the most unexceptionable language; and it leaves the British Government free to act its own pleasure, without giving us the slightest offence should the result be unsuccessful."

Now, I wish to say, in the first place, that this is interference. Intercession is one mode of interference. It is not an offensive mode of interference; but it is a mode of interference. He who undertakes to intercede between the judge and the offender—between the sovereign and his convicted subject, undoubtedly interferes. It seems to me that the honorable Senator is entirely mistaken in supposing that intercession is not interference. It is true that all interference is not intercession, because we may interfere by threats, by violence, by blows; but it is no less true that every intercession is an interference. Then I am not exactly prepared to admit the fundamental, the original proposition, from which the argument of the honorable Senator from Michigan starts, which is that political offences, though they violate existing laws, are yet offences accompanied with no moral guilt. I can conceive of such a thing as a political offence which, though violating municipal laws, is not accompanied with moral guilt; but I do not think it is regularly or generally the case, or can be affirmed as a proposition either universal or with but few exceptions. But, assuming it to be so:

treason against the United States, but influenced by high and noble motives, under the full inspiration of the "higher law" enthusiasm, which prompted them to come forward and at every hazard, not for the benefit of themselves, but, as my friend from Michigan said with regard to these gentlemen, for the benefit of their country, to relieve the oppressed, and to prevent the wronged and hunted wayfarer from being dragged back into the captivity from which he had luckily escaped. They would be looked upon as men influenced by a high and lofty spirit of hospitality, who, with outstretched arms, were willing, even at the hazard of destroying the Constitution of their country, to carry into effect the high, noble, and generous purposes and impulses of their nature. If we think that it is our duty to interpose, because we look upon these persons who have been sentenced to this punishment by a foreign nation as meritorious and noble men, entitled to our sympathies and accompanied with no moral blame—how can we resist the right of a foreign state, of a foreign parliament or legislative body, to interfere in precisely the same mode with regard to citizens of ours whom we may think worthy of the extremest punishment, but which they regard as occupying the same relation to moral guilt which we attribute to the persons in whose behalf this resolution is now proposed? We should cut ourselves off, by adopting this proceeding, from any right to object. I see not where the thing would end. Resolutions of the British Parliament may be passed and sent to us, or communicated to us, in a kind of indirect, secret, and unostentatious mode, to which the Senator has referred, through their minister in this country.

Upon this subject I wish to practice upon the old-fashioned morality of doing as I would be done by. I want no interference of foreign states or governments in our internal affairs anywhere, and therefore I am not willing to set a practical example of such an interference on our behalf with their internal concerns. I know that this resolution springs from the highest and best motives. I know that my honorable friend from Illinois [Mr. Shields], who has moved it, has, at least in my judgment, no superior in the honorable, the fine, and elevated sentiments that belong to the human heart. But it was well remarked, as I think Sallust or some of those old Roman writers told us, that Caesar once said in the Roman Senate that there was never any course of measures which had brought ruin upon a country which, at the first outset, did not spring from some good motive, and in the initiative were intended to accomplish some good end.

then the honorable Senator says we come forward and do not interfere, but intercede for these political offenders upon the ground that they are persons free from moral guilt; that they are noble patriots who have been condemned to a grievous imprisonment—originally condemned to the forfeiture of life—for the discharge of high acts of patriotic duty to their country; and that the noblest motives influenced them in what they had done; and that they are not to be considered as affected with any species of moral guilt.

Now, be it so. Assume that it is so, and that we wish it to be so. How was the transaction viewed by the British Government? That Government prosecuted these men as traitors—for an attempt to overturn the existing government of the United Kingdom of Great Britain and Ireland. For this offence they were convicted. For this offence they received the sentence of death; but the sentence was afterward commuted to an expatriation or exile in Van Diemen's Land. It seems to me that the English Government will scarcely think that when they have prosecuted these men for an offence of this kind, pronounced by their laws to be capital, when after conviction and judgment they have not thought proper to pardon the convicts but have exchanged the sentence of death to that of banishment from the realm, that they are honorable and noble men, who have been influenced by high and patriotic motives in what they have done. The British Government looks upon them in a far different light and description. Well, that being the case, how does it follow that we have no reason to fear that if we set this example, we shall not have it followed with a very unpleasant and disagreeable interference in the administration of our own laws?

Now, let us suppose for one moment that some of the actors in the Christiana riot [for the liberation of fugitive slave] had been found guilty of high treason. They were indicted for that crime. High treason is a political offence. I pray you, sir, if that case would not in a few sympathizing minds, on the other side of the water, have presented a case with all the claims which the honorable Senator from Michigan brings forward in behalf of these Irish exiles, for the interference of the masses, or the governments, or the parliaments, or the other legislative assemblies on the other side of the water, under the strong feelings of modern humanity and general sympathy for the oppressed everywhere? Why, to those people these Christiana rioters would have appeared noble men—guilty, it is true, of committing the little technical offence of violating the municipal laws of the country, convicted, to be sure, of what was called

The honorable Senator from New York [Mr. Seward] in the remarks which he submitted to the Senate this morning, after reassuring us that there was no danger that Great Britain would take any offence at this proceeding, became exceedingly bold, and held in very slight regard and estimation any, even the most serious, displeasure of that power. I am not a very valiant man, and I confess myself to have a pretty large share of that extreme reluctance as well to cutting the throats of other people as to having my own cut which is denominated by the word fear. And I go one step further. In my representative capacity I have a great deal of fear of involving this country in collisions with the great powers of the earth. Who should not fear it? Is not war a dreadful evil? Is not a war with the greatest naval and commercial power of the earth a fearful evil?

I fear putting ourselves wrong in the outset of such a proceeding. If we must have a conflict with Great Britain, or any other nation, let us be right in the commencement, in the prosecution, and throughout the whole conflict. And rely upon it, sir, that when such a conflict comes, if come it must, which God forbid, those who have some little salutary fear beforehand of the coming emergency will not be found the least resolute to do what that emergency may require.

I have, however, an objection to this resolution of another and different kind from that suggested by the Senator from New York. It has been said by the Senator from Michigan that Great Britain will not regard this in the light of an officious intermeddling with her concerns. We hear from various quarters that the probability is that the British Government, acting upon this intimation of the wishes of the American people, will gladly interpose and discharge these gentlemen from their hard captivity. For one, I should be sorry that the British Government should, at our interposition, and as a favor to us, set these gentlemen at liberty. And why? Because it is very obvious that that places us under an obligation to the British Government. It not only entitles them to interfere, by way of interceding in behalf of our people, if any of them should be convicted of offences similar to that to which I have referred, but it also entitles them to come with a claim upon us that they should be heard. I, for one, am not willing that this country should lay itself under any such obligation to the clemency, or courteousness, or kindness of the British Queen.

Let us have a little common sense in the regulation of our concerns. Do not let us be carried away captive with emotions which, however generous and noble in themselves, do not fur-

nish the proper guides for representative conduct. A man, in the private transactions of life, may allow a profuse generosity and inability to refuse any applicants for help to exhaust his purse and beggar himself for life; and when this is done, however severely we may disapprove of it, we are obliged to have a sympathy for him who, under such generous impulses, has sacrificed himself; but representatives and nations are bound, in my judgment, to have all their sympathies and feelings under thorough and complete control—to regulate themselves by understanding—to let common sense weigh, in all their deliberations, because they are not like a generous man who squanders his own, for, if they yield themselves up to these unguided impulses, they squander what is not their own—the wealth, the power, the resources of the state of which they are only the representatives. They sacrifice not themselves, but their country.

NON-INTERVENTION IN FOREIGN AFFAIRS

As a result of the debates on the Kossuth reception and the resolution of sympathy with the Irish patriots, John H. Clarke [R. I.], on January 19, 1852, introduced in the Senate the following resolutions:

Resolved, That Congress recognizes and reaffirms these manifest truths: "That governments are instituted among men to secure the inalienable rights of life, liberty, and the pursuit of happiness, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation upon such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.

Resolved, That while we claim for ourselves these comprehensive rights of self-government, and also, as a consequence of sovereignty, the right to be exempt from the coercion, control, or interference of others in the management of our internal affairs, we concede to others the same measure of right, the same unqualified independence.

Resolved, That it is upon the sacred principle of independent sovereignty that we recognize, in our intercourse with other nations, governments *de facto*, without inquiring by what means they have been established, or in what manner they exercise their powers.

consent of any people by usurpation or by armed intervention of foreign states or nations.

Resolved, That, considering that the people of Hungary, in the exercise of the right secured to them by the laws of nations, in a solemn and legitimate manner asserted their national independence, and established a government by their own voluntary act, and successfully maintained it against all opposition by parties lawfully interested in the question; and that the Emperor of Russia, without just or lawful right, invaded Hungary and, by fraud and armed force, subverted the national independence and political constitution thus established, and thereby reduced that country to the condition of a province ruled by a foreign and absolute power: the United States, in defence of their own interests, and of the common interests of mankind, do solemnly protest against the conduct of Russia on that occasion as a wanton and tyrannical infraction of the laws of nations; and the United States do further declare that they will not hereafter be indifferent to similar acts of national injustice, oppression, and usurpation, whenever or wherever they may occur.

Lewis Cass [Mich.] also offered the following substitute for Senator Clarke's resolutions:

Resolved, That while the people of the United States sympathize with all nations who are striving to establish free governments, yet they recognize the great principle of the law of nations which assures to each of them the right to manage its own internal affairs in its own way, and to establish, alter, or abolish its government at pleasure, without the interference of any other Power; and they have not seen, nor could they again see, without deep concern, the violation of this principle of national independence.

On February 9 Senator Clarke spoke upon his resolutions and Senator Cass's substitute. Reply was made on February 10 by Senator Cass, and on March 9 by Senator Seward.

NON-INTERVENTION

SENATE, FEBRUARY 9-MARCH 9, 1852

SENATOR CLARKE.—These resolutions affirm the true doctrines of self-government, as set forth in the Declaration of our

Resolved, That this Government has solemnly adopted, and will perseveringly adhere to, as a principle of international action, the advice given by Washington in his Farewell Address: "Observe good faith and justice toward all nations; cultivate peace and harmony with all." "Give to mankind the magnanimous and too novel an example of a people always guided by an exalted justice and benevolence." "Sympathy for a favorite nation betrays itself into a participation in the quarrels and wars of another, without adequate inducement or justification." "Against the insidious wiles of foreign influence the jealousy of a free people ought to be constantly awake; for foreign influence is the most baneful foe of republican governments." "The true rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible." "Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?"

Resolved, That, while we cherish the liveliest sympathy toward all who strive for freedom of opinion and for free institutions, yet we recognize our true policy in the great fundamental principles given to us by Jefferson: "Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship, with all nations, entangling alliances with none."

Resolved, That, although we adhere to these essential principles of non-intervention, as forming the true and lasting foundation of our prosperity and happiness, yet whenever a provident foresight shall warn us that our own liberties and institutions are threatened, then a just regard to our own safety will require us to advance to the conflict rather than await the approach of the foes of our constitutional freedom and of human liberty.

To these resolutions William H. Seward [N. Y.] offered the following amendment:

Strike out all after the second resolution and insert the following:

Resolved, That while the United States, in consideration of the exigencies of society, habitually recognize governments *de facto* in other states, yet that they are, nevertheless, by no means indifferent when such a government is established against the

Independence. They take the farewell advice of the great and good Washington for our political chart, and they reiterate the wise declarations of Jefferson, whose precepts are oftener upon the lips than in the hearts of those who claim to be his peculiar disciples. His conservative principles, by no means extreme, are cast aside as the dogmas of a bygone age. Sir, it is time that we recur to our ancient political landmarks. As the mariner consults his chart, and takes by day the altitude of the sun, and at night his observations are directed to the stars, so, sir, it is healthful for us to go back to the principles and the policy of our Government—break upon the altar of our faith the sacramental bread, and renew our fidelity to the maxims which our fathers established, and which have borne them and us from feeble infancy to a high and vigorous and unsullied manhood.

Senator Clarke then recounted the events which had led up to Washington's Proclamation of Neutrality in the French-British War of 1793 [see Chapter I], and read the proclamation.

John Marshall, in his "Life of Washington," speaking of this proclamation, says:

"This measure derives importance from the consideration that it was the commencement of that system to which the American Government afterward inflexibly adhered, and to which much of the national prosperity is to be ascribed."

Mr. President, the policy of our Government, thus settled by Washington, has been confirmed and reaffirmed by succeeding statesmen from that to the present day, and can hardly be obliterated from the faith of either of the great parties of the country.

The Senator from Michigan has offered a substitute for the resolution which I propose—repudiating the Farewell Address of Washington.

Gently and tenderly he tells us that the interference of one nation in the affairs of another cannot be seen without "deep concern." But he proposes no definite action.

The substitute assumes "that the people of the United States sympathize with all nations who are striving to establish free governments," which is palpable, and to its utmost extent true. But the Senator from New York, in the amendment offered by him, goes more boldly to his purpose. In the first place, he would "protest" against national intervention,

and afterward "would not be indifferent to similar acts of national injustice."

In a quarrel between the retainers of the rival houses of Montague and Capulet we have a fair example of this mode of warfare by protest. "Deep concern" and not being "indifferent to national injustice" (preceded by an avowal that no force is contemplated) is here well illustrated in the quarrel between the retainers of the houses.

"Abram. Do you bite your thumb at us, sir?

"Sampson. Is the law on our side if I say aye?

"Gregory. No.

"Sampson. I do not bite my thumb at you, sir; but I bite my thumb, sir.

"Gregory. Do you quarrel, sir?

"Abram. Quarrel, sir? No, sir."

The doctrine of non-intervention in the internal affairs of other nations has been the settled and reiterated policy of our country. A departure from these established truths can lead only to a resort to the strong arm, and put at hazard the rich inheritance of freedom which we enjoy, and the rich fruits which a benign Providence has mercifully bestowed upon us.

Far more are we doing for the liberation of man by our quiet and peaceful example than could possibly be effected by wasting our energies in a conflict of opinion with the despots of the world, and in favor of a people unsuited, by intelligence and education, to appreciate blessings prematurely forced upon them by even a Christian charity, which would waste itself and do them no good.

The liberty and happiness of our country, now and forever, may be in our keeping, and the solemn trust should be executed with judgment, with caution, and with prudence. The vast and incomprehensible influence of such a people will silently but surely work its way among the nations of the earth, and our institutions will shed a mild and gentle light upon degraded and oppressed humanity. It is our solemn duty carefully to cherish and preserve the rich blessings we enjoy, and which have never before been given to man, and not venture them upon the sea of every nation's disquietude. As that duty is performed, so will God and our own right arm protect us.

SENATOR CASS.—My objections to the original proposition are not to the great truths it enunciates—truths drawn from our own State papers, of the best days of the Republic, for to their

eternal justice I yield a cheerful acquiescence—but to the narrow application it is designed to make of them. They met, and were intended to meet, the circumstances of the country, connected with our right to the new position we had assumed as a member of the family of nations, and with occurrences which took place not long afterward, but they went no further. The obligations which subsequent events might impose upon us in relation to ambitious pretensions, incompatible with the public law and the independence of nations, they neither foresaw nor defined. And thus is it that we must push our inquiry beyond these limits before we reach the great question of our true duty and policy now in face of us.

In the brief examination I propose to give to the subject before us, with a view to practical results rather than to profitless speculations, I have no intention of entering into the vexed question of the origin of international law, nor into the true grounds of the obligations by which civilized communities are required to submit to it. I assume at once the duty of all Christian people to recognize its binding force, and to aid its operations so far as they can properly do it. Certainly we cannot trace back this code to a universal legislative origin as we can trace back a municipal statute to its local source. It grew out of the necessity of regulating the intercourse between independent countries, in peace and in war; and traces of its existence may be found in the earliest recorded annals of nations. It began by assuaging the horrors of war, and by restraining the cruelties of barbarous conquerors; and by degrees, from a few simple maxims, it has become an elaborate system, coextensive with civilization, and appealing not less to the sense of interest than to that of morality by substituting fixed and just principles for those wayward passions which, without such an arbiter, would make the world one vast theater of carnage.

The elementary commentaries of wise and learned men, the decisions of enlightened jurists, and the discussions of able statesmen have built up the system, and it is a beautiful monument of the progress and improved condition of society. For it has not been a fixed and immutable code, but has accommodated itself to the advancing opinions and necessities of the world. Few and meager were at first its provisions, like the wants it was designed to meet; but, as these increased, it increased with them, till it has become one of the most useful, if not one of the proudest, works of the human intellect.

And let no one reproach it with inutilty or imbecility, because it is not always a barrier against interest and ambition;

but rather let us be thankful that it is so often appealed to and so often effectual in restraining the turbulent passions of our nature. And such is the force of public opinion, in this the days of its strength, that, even when the provisions of international law are evaded or neglected, its obligations are rarely, never indeed, denied, but constructions for selfish purposes are put upon it, forced and false it is true, but a tribute to its worth, even while its injunctions are practically disregarded.

It well becomes us and the principles of our institutions to profess our fealty to this great code of public morality; and not merely to profess it, but prove it, by our acts and declarations, and labor to enforce its obligations and its observance. It is a curious subject to trace the changes it has undergone, even in very late years, almost all marked by the progress of just opinions and by meliorations honorable to the spirit of the age. It is a great engine for good, but powerless for evil—a barrier against injustice and oppression, asserting the empire of reason over that of force.

The time has come when we have as much right and as much power to speak authoritatively on this subject as any other nation on the face of the globe. All we want, while professing the duty of obedience, is that other nations should equally obey it. There is none so high as to be above its obligations; none so low as to be beneath its protection.

We believe in the right and in the capacity of man for self-government—not that he is everywhere prepared for institutions like ours. We know, while we regret, that he is not. But we believe that he is everywhere fitted even now for taking some part in the administration of political affairs, greater or less, in proportion to his experience and condition; and that everywhere, with time and practice, he may improve himself and his government till both become as free as the state of society will permit. And certainly the expression of the warm hope that this time will come and come speedily is consistent with every respect for other powers.

We claim no right to interfere in their internal concerns. While we are firm believers in our own political faith, we enter into no crusade to establish it elsewhere. Propagandism is no part of our creed, unless it be that propagandism which works its own way by the force of example, thus inviting the oppressed nations of the earth to do as we have done, and to be as free and happy as we are. But we cannot be indifferent to the condition of the human race, however widely scattered. A desire for its improvement, morally and materially, is a sentiment

natural to man. And an American can hardly shut himself up in his own selfish egotism, thanking God, in the spirit of the Pharisee, that his country is better off than any other, and indifferent to the oppression, and degradation, and misery which centuries of bad government have entailed upon so large a portion of the earth. Unless the many were made for the few, the governed for the governors, our sympathies should be excited, as were those of Washington, for every people unfurling the banner of freedom, and a God-speed them be uttered, not only in the effort to improve their political system, but in the greater effort to maintain it by improving the condition of the great body of those for whom governments are instituted. And may we not say, as an English parliamentary orator said very recently for his country, "that the spirit of our people is for freedom everywhere?" And may we not echo his sentiment and declare "that they would not rest satisfied with seeing the *ultima ratio* of European policy lodged in the bayonet of the barbarian?"

Now, sir, what we want is that freedom should have a fair battlefield. That whenever a struggle is commenced to overthrow an arbitrary government, other despotic powers should not be permitted to take part in the contest and with foreign bayonets decide the issue.

Such is our desire, and this principle of non-interference is well established in the code of public law. It lies at the very foundation of national independence. I need not multiply proofs or illustrations of the truth of this doctrine. It was well laid down by Mr. Roebuck in the English House of Commons, when he said: "The important principle with which we have to deal was that in the internal affairs of any country there should be no external force or pressure." Its recognition goes back to the time of the Romans, for we are told that, when certain Carthaginians preferred charges against Hannibal, Scipio declared that the Roman senate would not be justified in intermeddling in the affairs of Carthage.

There is one highly respectable authority—and I know of no other—Vattel, who holds that, in a state of civil war, any other power may assist the party which it believes to be just. But it is obvious that such a principle would open every case to direct armed intervention at the will of any foreign government; which has only to say, such a party has justice on its side and I will aid it. Now, sir, this doctrine is contradicted as well by reason as by the whole current of authorities. Wildman, one of the most recent as well as one of the most able

commentators on the law of nations, condemns the position of Vattel, into which he says he was led by "a misconstruction of a passage of Grotius," and "that it is as little reconcilable with reason as it is with precedent." He examines the cases fully and shows how erroneous is this doctrine, and announces the result thus:

"But this restriction of interference in favor of the cause of justice is an absolute prohibition of interference on the part of those who have no jurisdiction to determine the justice of the cause. Hence it follows that no foreign power has any right to interfere in the internal affairs of an independent state."

Establish this doctrine of Vattel, and the Emperor Nicholas, who no doubt believes every despotic cause a just one, would have a right to send his armies everywhere to repress the efforts of freedom.

The system of international law would not be worth the paper on which it is written if such examples of contempt for the feelings and rights of mankind as Russia has exhibited in the case of Hungary admitted neither resistance nor remonstrance. "Concession," says Bentham, in his forcible language, "Concession to notorious injustice invites fresh injustice"; and this is nowhere more true than in the career and conduct of nations. And we find that the right of independent powers to express their opinions upon grave questions of public law, when that law has been violated, has been so often and so openly exercised that no doubt can exist of the right and indeed of the duty of thus acting, when the nature and the gravity of the circumstances require such a measure.

It is the interest of each nation that the rights of all should be respected, because the spectator of injustice to-day may be its victim to-morrow; and none of the barriers against ambition and tyranny can be broken down without danger to the civilized world. Every power must judge for itself how far its own interests may be touched by the pretensions advanced, and what course true policy requires it should take. It is not necessary that the evil day should be upon it before it makes known its disapprobation, for, in that case, aggressions would be eternal, or war the only remedy to resist them.

We have a direct interest, a material interest, if you disclaim every principle of action but the utilitarian principle, in the benefits of commercial intercourse, and in the prosperity and stability and independence of nations, by which the resources and commerce of a country are increased, and in the maintenance of those great principles which protect these rights.

by other states or by both. It is an appeal to them. It calls for their opinion." A new school of expounders has arisen which denounces them as appeals to force.

Our own history presents a memorable example of the exercise of this right to declare a principle of national law. Mr. Monroe's views on a similar question, solemnly announced to Congress and the world, form a well-known part of our political history. And, though his doctrine has not been wholly efficacious, it has, no doubt, contributed, with other causes, to the stability of the independence of the American States, and to check the spirit of colonization.

Certainly solemn public declarations of this nature should not, would not indeed, often be made, for their frequent occurrence would impair, if not destroy, their moral effect. They should be reserved for those extraordinary events, affecting the honor and stability of all nations, which stand prominently forward in the history of the world; characteristics, indeed, of the age in which they occur. Let no man, therefore, object that such a *conservative* remedy, for once the epithet is a just one, will lead to abuse or will destroy itself by too frequent application.

We ought neither to mistake our position nor neglect the obligations it brings with it. We have at length reached the condition of one of the great powers of the earth, and yet we are but in the infancy of our career. The man is now living who will live to see one hundred and fifty millions of people, free, prosperous, and intelligent, swaying the destinies of this country, and exerting a mighty influence upon those of the world. And why not, Mr. President? Is it not likely to be more beneficially exerted than the influence now exercised by the despotic powers of the earth? No one can doubt this. Why, sir, even Vattel, enlightened as he was, tells us that "the law of nations is the law of sovereigns. It is principally for them and for their ministers, that it ought to be written," etc. The age has got far beyond this degrading doctrine. That law was made for the great civilized community of the world, and its obligations and their violations will be judged by this high tribunal, and its voice will become, from day to day, louder and more efficacious. Let us aid it by the expression of our views, whenever questions arise interesting to all the members of the great commonwealth of nations. There are no considerations of right or expediency to restrain us from such a course; for, as I have shown, we are just as free to act or forbear, after such a declaration, as before. But, it has been asked, why pro-

But I agree with one of the most independent of the public men of England, Mr. Roebuck, that higher considerations may justly influence our actions, and that "we should not bind up all our feelings in the interchange of commodities, or the sordid question of profit or loss. He believed there was something more in the souls of the people than that." And the sentiment, advanced by Lord Palmerston, that a great country should not "be a passive and mute spectator of everything that goes on around" deserves our commendation and concurrence.

There is not a page of modern diplomatic history in which may not be read the outlines I have already referred to of national conduct. But a strange error seems to prevail respecting one branch of this subject which it is necessary to examine, not from the support it derives from reason or authority, but from the confidence with which it is urged, and because, if not corrected, it may paralyze the national action in all time to come.

This erroneous doctrine has been widely and confidently spread and seeks to deter us from expressing any opinion upon the law of nations by an apprehension of the consequences. It is maintained that in all cases where a nation makes such a declaration it is bound to support its views by war if these are not acquiesced in, or it will lose its own self-respect and subject itself to the contumely of the world. There is not the least foundation in reason or authority or precedent, for such an assumption. It is gratuitous as it is untenable.

Mr. President, the particular form in which a nation makes known its views, from the most common diplomatic note to the most solemn protests, neither adds to nor takes from its responsibility or obligation. It appears to be assumed that there is some peculiar pugnacious quality attached to a protest which necessarily leads to armed action. This is not so. A public declaration in that form no more imposes on the nation making it the duty of vindicating it by arms than the every day representations which the usual diplomatic intercourse renders necessary. To be sure, the proceeding is more solemn, as the subjects generally are more grave; and it goes forth to the world under circumstances of deliberation which give to such declarations more than usual importance. But that they are necessarily followed by war whenever they fail in the result is contradicted by all the diplomatic experience of modern times.

"Manifestoes," says Bentham, and such declarations are a kind of protest, "are in common usage. A manifesto is designed to be read either by the subjects of the state complained of or

claim your opinion unless you mean to maintain it by the strong hand? For the same reason that countless representations and remonstrances have been made by independent powers when they had reason to apprehend the adoption of measures hostile to the just principles of national intercommunication. To mark their disapprobation of the act and of the doctrine, that their silence might not be construed into acquiescence, and that, when, in the mutation of political affairs, the proper time should come they might interpose effectually, if they should desire it, not concluded by the success of violence nor by the lapse of time; that the power itself, contemplating the step, might pause and review its position and its pretensions and the consequences to which it might be led; not knowing, of course, what measures might follow these appeals to its sense of right should they fail to be effectual; and, above all, that the public opinion of the world should be rightly instructed and brought to aid these peaceful efforts to preserve the rights of mankind.

It has been said, in condemnation or in reproach of this effort, that there are many other suffering people and violated principles calling equally for the assertion of this right, and why, it is asked sneeringly, if not triumphantly, why do you not extend your regards and your action to all such cases? And as that is impossible with any useful result, as every one knows, we are, therefore, to sit still and do nothing because we cannot do everything. Such is no dictate of wisdom or duty, either in political or ethical philosophy. The prudent statesman looks to what is practicable, as well as what is right.

Many objections, more or less plausible, have been presented to deter us from any action in this matter, but not one of them with more confidence of pertinacity, nor with less regard to the true circumstances of our position, than that which warns us that by such a proceeding we should violate alike the traditions of our policy and the advice of our wisest statesmen, and especially the injunctions of Washington and Jefferson. Never were just recommendations more inappropriately applied than in this attempt to apply the views of those great men to the circumstances in which we are placed.

Non-intervention, it is said, was the policy they maintained and the legacy they bequeathed to us; but is it possible that a single American can be found who believes that either of those patriots would condemn the declaration of his country's opinion upon a great question of public law because they condemned its interference with the affairs of other nations? Why, this is our affair, sir; an affair as interesting to us as to any other

community on the face of the globe; one which involves the safety of independent states, and the true intent and obligation of the code that regulates their intercourse.

What did Washington say on this subject? These are his words:

"It is our true policy to steer clear of permanent alliances with any portion of the foreign world."

"Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her [European] politics, or the ordinary circumstances or collisions of her friendships and enmities."

These sentiments speak for themselves and are commended no less by the authority that uttered them than by their own justice to the American people. Ingenuity itself cannot torture them into the service of the opposition to the present proposition, one which seeks no "alliances" and asks for no "artificial ties." It limits itself to a simple declaration of opinion.

And the authority of Mr. Jefferson has been invoked with as little reason in condemnation of this measure. "Peace," said that Patriarch of the Democratic faith, "Peace, commerce, and honest friendship with all nations; entangling alliances with none." Why, sir, there is no room for argument between the man who gives to this language of Mr. Jefferson its true and natural import and him who applies it to the assertion of a great national right. They have no common ground to stand upon. When the declaration of an important principle, common to all nations and made in connection with none, is shown to be an entangling alliance with one of them, then may this sentiment be appealed to and the people warned against its violation.

Mr. President, the wonderful advance of skill and science has brought Europe nearer to us now than was Savannah to Philadelphia at the adoption of the Constitution. And similar causes are probably destined yet more to diminish the distance; and the increase of the moral and material interchange consequent upon the progress of the age has not been less remarkable than the increase in the facilities of intercourse. We cannot be insensible to the onward march of events in the old hemisphere, nor indifferent to their operation upon the great mass of the people. Undoubtedly Europe, to some extent, has peculiar interests and a peculiar policy, with which we have no concern. Dynastic laws, the balance of power, the influence claimed by five great states—these and other maxims of policy give rise to questions with which we have no desire to intermeddle. But,

war is nevertheless to come, it must come in retaliation of the protest, and by the act of Russia, or of Austria, or of both. Assume, now, that it shall so come, will it be just? The protest is a remonstrance addressed to the conscience of Russia, and, passing beyond her, carries an appeal to the reason and justice of mankind. As by the municipal law no remonstrance or complaint justifies a blow, so by the law of nations no remonstrance or complaint justifies war. The war then would be unjust, and so the protest would be not a cause, but a pretext. But a nation that will declare war on a pretext will either fabricate one or declare war without any.

And now, honorable Senators, I ask, if we are to shrink from this duty through fear of unjust retaliation, what duty shall we not shrink from under the same motive? And what will be the principle of our policy when thus shrinking from obligations but fear instead of duty?

And who are we, and who are Austria and Russia, that we should fear them when on the defence against an unjust war? I admit, and I hope all my countrymen will learn it without a trial, that we are not constituted for maintaining long, distant wars of conquest or of aggression. But, in a defensive war levied against us on such a pretext, the reason and the sympathies of mankind would be on our side, cooperating with our own instincts of patriotism and self-preservation. Our enemies would be powerless to harm us, and we should be unconquerable.

Why, then, I ask, shall we refrain from the protest? The answer comes up on all sides: Since, then, the measure is pacific, Russia will disregard it, and so it will be useless. Well, what if it should? It will at least be harmless. But Russia will not disregard it. It is true that we once interpleaded between the belligerents of Europe twenty-five years by protests and remonstrances in defence of our neutral rights, and vindicated them at last by resistance against one party, and open, direct war against the other. But all that is changed now. Our flag was then a stranger on the seas; our principles were then unknown. Now, both are regarded with respect and affection by the people of Europe. And that people, too, are changed. They are no longer debased and hopeless of freedom, but, on the contrary, are waiting impatiently for it, and ready to second our expressions of interest in their cause. The British nation is not without jealousy of us. Let us only speak out. Do you think that they would be silent? No, sir. And when the United States and Great Britain should once speak, the ever-fraternizing bayonets of the army of France, if need were, would open a mouth

besides these, there are great principles of the laws of national intercommunication often coming up for discussion and decision in Europe, and which affect the interest and the safety of all the independent states of the world. The former we may regard merely with the natural interest which is felt in passing events; but the latter we should watch with sleepless vigilance, taking care that no innovation be established in the public laws without our consent, to which we should be called upon to submit hereafter on the ground of its having been sanctioned by time and acquiescence; as the right to search our vessels would have been established had we not resisted the claim at its very inception.

Mr. President, it has often been said that we have a mission to fulfill, and so, indeed, has every nation; and the first mission of each is to conduct its own affairs honestly and fairly, for its own benefit; but after that its position and institutions may give to it peculiar influence in the prevailing moral and political controversies of the world which it is bound to exert for the welfare of all. While we disclaim any crusading spirit against the political institutions of other countries, we may well regard with deep interest the struggling efforts of the oppressed through the world, and deplore their defeat, and rejoice in their success. And can any one doubt that the evidences of sympathy which are borne to Europe from this great Republic will cheer the hearts, even when they do not aid the purposes, of the down-trodden masses to raise themselves, if not to power, at least to protection? Whatever duties may be ultimately imposed on us by that dark future which overshadows Europe, and which we cannot foresee, and ought not to undertake to define, circumstances point out our present policy, while at the same time they call upon us to exert our moral influence in support of the existing principles of public law, placed in danger not merely by the ambition but still more by the fear of powerful monarchs—the fear lest the contagion of liberty should spread over their dominions, carrying destruction to the established systems of oppression.

Our present duty and policy are to place our views upon record, thus avoiding conclusions against us and reserving all our rights and all our remedies, whatever these may be, for future consideration, when the proper exigency may arise.

SENATOR SEWARD.—If war is to follow this protest, then it must come in some way, and by the act of either ourselves or our enemy. But the protest is not a declaration, nor a menace, nor even a pledge of war in any contingency. War, then, will not come in that way, nor by or in consequence of our act. If

for the voice of that impulsive and generous nation. Who believes that Russia, despotic as she is, would brave the remonstrances of these three great powers, sustained as they would be by the voice of Christendom? Sir, I do not know that this protest will do Hungary or European democracy any good. It is enough for me that, like our first of orators (Mr. Webster) in a similar case, I can say, "I hope it may."

And now, sir, why must we go to war to sustain our protest? You may say, because we should be dishonored by abandoning an interest so solemnly asserted. Sir, those who oppose the protest are willing to forsake the cause of Hungary now. Will it be more dishonorable to relinquish it after an earnest effort than to abandon it without any effort at all in its behalf? Sir, if it be mere honor that is then to prick us on, let the timid give over their fears. A really great, enlightened, and Christian nation has just as much need to make war on a false point of honor as a really great, enlightened, and Christian man has need to engage in a personal contest in the same case; and that is no necessity at all. Nor shall we be reduced to the alternative of war. If Hungary shall never rise, there will be no *casus belli*. If she shall rise, we shall have right to choose the time when to recognize her as a nation. That recognition, with its political influence and commercial benefits, will be adequate to prevent or counterbalance Russian intervention. But I am answered that we shall unnecessarily offend powers whom it is unwise to provoke. I reply that it is not enough for a nation that it has no enemies. Japan and China are in that happy condition. It is necessary that a state should have some friends. To us, exemption from hatred obtained by insensibility to crime is of no value; still less is the security obtained by selfishness and isolation. Only generosity ever makes friends, and those that it does bring are grateful and enduring.

There remains the objection that flows so readily from all conservative pens and tongues on this side of the Atlantic, and still more freely from the stipendiary presses of Paris and Vienna, that a protest would be a departure from the traditional policy of our country and from the precepts of Washington. It is passing strange, sir, that Louis Napoleon and Francis Joseph should take so deep an interest in our adherence to our principles, and in our reverence of the memory of him who inculcated them, not for the immunity of tyrants, but for the security of our own welfare.

Sir, granting for a moment that Washington inculcated just such a policy as is claimed by my opponents, is it so entirely

certain that it ought always and under all circumstances to be pursued? Here is a message of his in 1792 that illustrates the policy he adopted toward, not one only, but all the Barbary Powers, and it received, I think, the unanimous and favorable response of the Senate of the United States.

Here the Senator read Washington's proposition to ransom American captives in Algiers, and pay tribute to the Berber Government.

Sir, you and I and all of us would have answered in the affirmative to these questions, had we lived and occupied these places in the last century. I desire to ascertain how many votes such a treaty would receive here now? And I address myself to the honorable Senator from Rhode Island [Mr. Clarke], who moved resolutions against any departure from the policy of Washington. Would you, sir, pay a Barbary pirate \$40,000 to ransom thirteen captives, and \$25,000 bonus, and \$25,000 annually, for exemption from his depredations. He looks dissentingly. I demand from the honorable Senator from New Jersey [Mr. Stockton], who in the triple character of Senator, Commodore, and General, presided at the Birthday Congressional Banquet in honor of Washington, and dishonor of his Hungarian disciple, Kossuth, would you, sir? No, not he. All who are in favor of such a treaty, let them say aye. What, sir, not one vote in the Senate of the United States for the continuance of what was in its time a wise and prudent as well as humane policy of Washington? No, not one. And why, sir? The answer is easy: The times have changed, and we have changed with them.

I will not venture on such a question as whether humanity and justice may not in some contingencies require that we should afford substantial aid to nations as weak as we were in our revolutionary contest.

It is clear enough, however, that we distrust our strength seldom except when such diffidence will serve as a plea for the non-performance of some obligation of justice or of humanity. But it is not necessary to press such inquiries. What is demanded here is not any part of our fifty millions of annual revenue, nor any use of our credit, nor any employment of our Army or of our Navy, but simply the exercise of our free right of speech. If we are not strong enough now to speak, when shall we be stronger? If we are never to speak out, for what were national lungs given us?

Senators and Representatives of America, if I may borrow

the tone of that sturdy republican, John Milton, I would have you consider what nation it is of which you are governors—a nation quick and vigorous of thought, free and bold in speech, prompt and resolute in action, and just and generous in purpose—a nation existing for something, and designed for something more than indifference and inertness in times of universal speculation and activity. Why else was this nation chosen, that "out of her, as out of Sinai, should be proclaimed and sounded forth the first tidings and trumpet" of political reformation to all nations? I would have you remember that the love of liberty is a public affection which this nation has deeply imbibed and has effectually diffused throughout the world; and that she cannot now suppress it, nor smother her desires to promote that glorious cause, for it is her own cause.

Let others employ themselves in devising new ligaments to bind these States together. For myself, I am content with the old ones just as I find them. I believe that the Union is founded in physical, moral, and political necessities, which demand one Government and would endure no divided States. I believe, also, that it is righteousness, not greatness, that exalteth a nation, and that it is liberty, not repose, that renders national existence worth possessing.

It has already come to this, that whenever in any country an advocate of freedom, by the changes of fortune, is driven into exile, he hastens to seek an asylum here; that whenever a hero falls in the cause of freedom on any of her battlefields, his eyes involuntarily turn toward us, and he commits that cause with a confiding trust to our sympathy and our care. Never, sir, as we value the security of our own freedom, or the welfare and happiness of mankind, or the favor of Heaven that has enabled us to protect both, let that exile be inhospitably repulsed. Never let the prayer of that dying hero fall on ears unused to hear, or spend itself upon hearts that refuse to be moved.

CHAPTER XI

"FIFTY-FOUR FORTY OR FIGHT"

[THE OREGON BOUNDARY]

Lewis F. Linn [Mo.] Introduces in Senate Bill to Assert Claims to the Territory of Oregon Against Great Britain—Debate: in Favor, Thomas H. Benton [Mo.], Levi Woodbury [N. H.]; Opposed, John C. Calhoun [S. C.], George McDuffie [S. C.]; Carried—Bill Is Reported Adversely in the House—Abortive Negotiations with the British Minister—President James K. Polk Asserts "Our Title to the Whole of Oregon" (54° 40')—Resolutions to This Effect Are Introduced in the Senate by Edward A. Hannegan [Ind.]—Debate: in Favor, Hannegan, William Allen [O.], Lewis Cass [Mich.], Sydney Breese [Ill.]; Opposed, John C. Calhoun [S. C.], Thomas H. Benton [Mo.], John J. Crittenden [Ky.], Daniel Webster [Mass.], William L. Dayton [N. J.], William H. Haywood [N. C.]—Charles J. Ingersoll [Pa.] Introduces Resolutions in the House to Give Notice to Great Britain Terminating Joint Occupancy of Oregon—Debate: in Favor, Henry W. Hilliard [Ala.], Howell Cobb [Ga.], Stephen A. Douglas [Ill.]; Opposed, William L. Yancey [Ala.], Robert M. T. Hunter [Va.], Jefferson Davis [Miss.]—New Resolutions Are Passed Authorizing the President to Continue Negotiations—Treaty Is Signed Fixing the Boundary at 49° N. L.

WHILE a treaty, completed with Great Britain in August, 1842 (the Webster-Ashburton Treaty), had fixed the northeastern boundary of the United States, the northwestern boundary remained in dispute. Several thousand Americans had permanently settled in the Oregon region, entering chiefly into the fur trade, and there arose a strong patriotic sentiment in the Northern and Western States to secure the entire Pacific region northward to the Russian occupation (54 degrees and forty minutes north latitude).¹ They viewed with anxiety the subsequent encroachments of the Hudson Bay Company in introducing British immi-

¹ Senator William Allen [O.] coined the phrase, "Fifty-four Forty or Fight," as the slogan of those who made this demand.

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grants into the region, shepherds and farmers, and erecting forts there, pushing southward as far as California, and eastward to the Rocky Mountains, as well as the decree of Parliament which extended the criminal laws of Great Britain to the very confines of Arkansas and Missouri.

As early as December 29, 1839, Lewis F. Linn (Missouri) had introduced in the Senate resolutions declaring that the title of the United States to the Territory of Oregon was indisputable and would never be abandoned; that the laws of the United States should be extended over the Territory; that regular troops should be sent there for the protection of the settlers against the Indians and any foreign force which might seize the country, and that land be freely offered to settlers. He did not press the resolutions, being dissuaded by other Congressmen who feared that the negotiations with Great Britain over the northeastern boundary would thereby be embarrassed. Therefore they did not come up for discussion until January 9, 1843.

The bill was passed on February 3 by a vote of 24 to 22. The chief speakers in its behalf were Thomas H. Benton (Missouri) and Levi Woodbury (New Hampshire). Its leading opponents were John C. Calhoun (South Carolina) and George McDuffie (South Carolina).

THE OREGON BILL

SENATE, JANUARY 9-FEBRUARY 3, 1843

SENATOR BENTON.—British interests have grown up on the Columbia; and the British Government owes protection to these interests, and will give it! This is now the language of British ministers; and this is what we have got for forty years' forbearance to assert our title! The nest-egg laid by British diplomacy has undergone incubation, and has hatched, and has produced a full-grown bird—a game cock—which has clapped his wings and crowed defiance in the face of the American eagle! and this poor eagle, if a view could be got of him as he stood during the "informal conferences" between Mr. Webster and Lord Ashburton, would be found (no doubt) to have stuck his

head under his wing, and hung out the white and craven feather.

British interests have grown up on both sides of the Columbia—to the south as well as to the north of the river—and it is the intention of the British Government to protect the whole. So say Mr. Huskisson and Mr. Addington. But this is diplomacy—modern diplomacy—equivalent to finesse. The south of the Columbia has not been seized to be retained, but to be given up! The north is to be retained, for that is the commanding bank. The south is only seized to be given up as an equivalent, according to the modern system of compromising so successfully introduced in the case of Maine. Seize all! then give back half! call this a compromise! and there will be people (for the minds of men are various)—there will be people to applaud the fine arrangement, and to thank God for such a happy deliverance from war. No, sir; no. This is a joke about holding on to the south bank. The settlements made there are for surrender, not for retention. They are made there to be given up as equivalents for what is taken from us on the north; and thus settle the Columbia question according to the precedent of Maine.

But the settlements on the north bank—there protection is no joke. The British mean to hold on to them, for they command the remainder. And, after the experiment which the British have just made of our peace-loving temper, it is not to be supposed that we shall get out of this scrape without seeing the match applied to the priming, or having the cup of dishonor held to our lips until we drink it to the dregs.

SENATOR WOODBURY.—I am glad to find that there is not a single member of the Senate who seems to entertain the slightest doubt of our just title to the entire territory. All contend that our right to all we claim is indefeasible. Why, then, should there be any hesitation about exercising our ownership over the territory?

Our citizens, who have cast their fortunes in the territory, claim our protection, and it is our duty to grant it. It is the duty of the United States to protect our citizens in their lawful pursuits on every portion of our territory, no matter how remote or inconvenient from the nucleus of Government. It is the duty of Congress to extend its territorial laws for the benefit of those remotely settled citizens.

Senator Calhoun opposed the bill on the ground that in the existing "imbecile condition of the Government"

the worthy Senator from New Hampshire (Mr. Woodbury) seems to have discovered a principle much more potent than the representative principle. He refers you to steam, as far more potent. I should doubt very much whether the elements, or powers, or organization of the principles of government, will ever be changed by steam. Steam! How are we to apply steam in this case? Has the Senator examined the character of the country? What is the character of the country? Why, about seven hundred miles this side of the Rocky Mountains is uninhabitable, where rain scarcely ever falls—a barren sandy soil.¹ On the other side—we have it from a very intelligent gentleman, sent to explore that country by the State Department, that there are three successive ridges of mountains extending toward the Pacific, and running nearly parallel; which mountains are totally impassable, except in certain parts, where there are gaps or depressions, to be reached only by going some hundred of miles out of the direct course. Well, now, what are we to do in such a case as this? How are you going to apply steam? Have you made anything like an estimate of the cost of a railroad running from here to the mouth of the Columbia? Why, the wealth of the Indies would be insufficient. You would have to tunnel through mountains five or six hundred miles in extent.² It is true, they have constructed a tunnel beneath the Thames; but at a vast expenditure of capital. With a bankrupt treasury, and a depressed and suffering people, to talk about constructing a railroad to the western shore of this continent manifests a wild spirit of adventure which I never expected to hear broached in the Senate of the United States. And is the Senate of the United States to be the last intrenchment where we are to find this wild spirit of adventure which has involved this country in ruin? I believe that the farmers, the honest cultivators of the soil, look now only to God, in His mercy, and their own labor to relieve them from the wretchedness in which the wild and visionary schemes of adventure have involved them.

The bill went to the House, where it was referred to the Committee on Foreign Relations. The committee on February 16, 1843, reported against its adoption and no action upon it was taken during the session.

¹ This region was known at the time and for many years afterward as "The Great American Desert." It was so designated in the school geographies.

² The Senator evidently thought that the tunneling would be lengthwise under the ridges!

it would be impolitic to risk war with so great a naval power as Great Britain over a region which it would be almost impossible for us to occupy with forces sent overland. It was because he wished to retain the Territory that he advised that events be allowed to take their natural course.

There is only one means by which it can be preserved, but that, fortunately, is the most powerful of all—time. Time is acting for us; and, if we shall have the wisdom to trust to its operation, it will assert and maintain our right with resistless force, without costing a cent of money, or a drop of blood. There is often, in the affairs of government, more efficiency and wisdom in non-action, than in action. All we want to effect our object in this case, is "a wise and masterly inactivity." Our population is rolling toward the shores of the Pacific, with an impetus greater than we realize. As the region west of Arkansas and the State of Missouri, and south of the Missouri River, is occupied by half-civilized tribes, who have their lands secured to them by treaty, the spread of population is prevented in that direction, causing this great and increasing tide to take the comparatively narrow channel to the north of that river and south of our northern boundary. Some conception may thus be formed of the strength with which the current will run in that direction, and how soon it will reach the eastern gorges of the Rocky Mountains. I say some conception; for I feel assured that the reality will outrun the anticipation.

SENATOR McDUFFIE.—What do we want with this territory? What are we to do with it? What is to be the consequence of our taking possession of it? What is the act we are called on now to do? Why, it is neither more nor less than an act of colonization, for the first time proposed since the foundation of this Government. If this were a question of gradual, and continuous, and progressive settlement—if the territory, to which our citizens are invited, were really to become a part of this Union, it would present a very different question. But, sir, does any man seriously suppose that any State which can be formed at the mouth of the Columbia River, or any of the inhabitable parts of that territory, would ever become one of the States of this Union? I have great faith in the power of the representative principle to extend the sphere of government; but I confess that, even in the most sanguine days of my youth, I never conceived the possibility of embracing within the same government people living five thousand miles apart. But, sir,

DECLARATION OF PRESIDENT POLK

Early in 1844 Senator Calhoun was appointed Secretary of State by President Tyler. From July, 1844, until January, 1845, he conducted negotiations in the Oregon Territory with the British minister, Richard Pakenham, but these proved abortive, Pakenham demanding as the boundary the line of 49 degrees north latitude as far westward as the crossing of the Columbia river, and, from this point onward, the river, but agreeing to have the question arbitrated, and Calhoun, while receding from the contention that 54 degrees and 40 minutes north latitude was the proper boundary, insisting on the line of 49 degrees westward from its crossing with the Columbia river to the Pacific Ocean, and refusing to consider arbitration.

This refusal, followed, as it shortly was, by the bold declaration, in his inaugural address, of President Polk, that "our title to the whole of Oregon" was indisputable, and must be maintained, raised a strong feeling in Great Britain and Canada for war with the United States.

It was clearly seen that assertion of the claim of the Territory as far north as the line of Russian occupation—54 degrees and 40 minutes north latitude—would precipitate hostilities with the greatest naval power in the world, the outcome of which would probably be the loss of the territory between the mouth of the Columbia River and 49 degrees north latitude, if not of all the American possessions on the Pacific coast.

Accordingly, after consultation with Senator Thomas H. Benton, the Secretary of State, James Buchanan, proposed to the British Government that the boundary be fixed at 49 degrees. This was refused. The knowledge of the offer leaked out, and the extremists in the Democratic party were greatly incensed at this recession from the claim in the Democratic platform upon which the President had been elected, and from the declaration of his inaugural address. To appease them, Secretary Buchanan formally withdrew his offer, and in his annual message on December 2, 1845, the President again as-

sented "our title to the whole of Oregon," and also advised that notice be given to Great Britain that the United States would terminate the joint occupancy of the territory agreed upon in 1827.

In the Senate on December 18 William Allen (Ohio) introduced a resolution authorizing the President to give such notice, and on December 30 Edward A. Hannegan (Indiana) introduced resolutions that "the whole" of Oregon belonged to the United States; that there was no power in the Government to alienate any part of the national domain, nor to transfer to another government the allegiance of its citizens, and that the surrender of Oregon in particular would be an "abandonment of the honor, character, and the best interests of the American people." To these latter resolutions John C. Calhoun (South Carolina) opposed others, declaring that the President and Senate had the constitutional power to make treaties, which included the adjustment of contested boundaries, and accordingly that the President, in proposing the line of 49 degrees north latitude, did not exceed his power, nor "abandon the honor, the character, or the best interests of the American people." In the interest of peace, Calhoun proposed resumption of negotiations with Great Britain, and therefore a continuance of the joint occupancy of Oregon. Senators Allen and Hannegan then urged a resolution directing the President to give Great Britain the twelve months' notice designated in the convention for terminating this occupancy.

In the debate which ensued leading speakers who demanded that there be no recession from the claim of the whole of the territory in dispute, and who therefore opposed Senator Calhoun's motion were Hannegan, Allen, Lewis Cass (Michigan) and Sydney Breese (Illinois); the speakers who were willing to compromise on the line of 49 degrees north latitude were Calhoun, Thomas H. Benton (Missouri), John J. Crittenden (Kentucky), Daniel Webster (Massachusetts), William L. Dayton (New Jersey) and William H. Haywood (North Carolina).

SENATOR CALHOUN.—The Senator from Indiana [Mr. Hannegan] has endeavored to draw a contrast between my course upon the Texas question and his course upon this. The views which governed me upon that question govern me also upon this. I pursued in reference to Texas what I conceived to be the best course. If I acted boldly and promptly on that occasion, it was because boldness and promptness were necessary to success. It was the golden opportunity; and one year's delay would have lost Texas to us forever. If I am for more deliberate measures on this occasion, it is not because I am not a friend to Oregon. I believe that precipitancy will lose you Oregon forever—no, not forever; but it will lose you Oregon in the first struggle, and then it will require another struggle hereafter, when we become stronger, to regain it.

If you institute a comparison between Oregon and Texas, I would say that the former is as valuable to us as the latter, and I would as manfully defend it. If the Senator and myself disagree, we disagree only as to the means of securing Oregon and not as to its importance. I do not suppose that the Senator intends to reflect upon the President; but there can be no difference, as far as the principle involved in this question is concerned, between the circumstances when the proposition for a division at the forty-ninth parallel was made and now. It was as sensible then to make the offer as it would be now.

SENATOR ALLEN.—In the assertion of her claims, Great Britain has not been influenced so much by her actual right to what she claims as by her own imaginary superiority over us in strength. And this view has entered into the arguments of those among ourselves who are opposed to a proper vindication of our rights; who maintain that we ought to surrender them because we are not in a condition to resist the power of Great Britain, and because, owing to her vast superiority, she will obtain what she claims at the point of the sword. We are therefore not only compelled to receive the tone of our thoughts and feelings from her but also her mandates. All this was made well understood in England; and, in all the Parliamentary speeches, we never heard of any one who asserted that she is not able to carry her purposes through, or that her power is even likely to be weakened in a contest with our Democracy. No one there urged timid counsels in order to paralyze her arm. She tells us that she has rights in Oregon which she will cause to be respected; and that if we adopt certain measures she will consider the act as cause of war. There is no crouching there, by declarations that she is not prepared. Had it been with

THE OREGON COMPROMISE

SENATE, DECEMBER 30, 1845-MARCH 31, 1846

SENATOR HANNEGAN.—The Senator from South Carolina [Mr. Calhoun] will not deny that the whole aspect of the question has been changed since the proposition of the President, by the peremptory and almost contemptuous refusal of the British minister. If it were not so, I am a freeman as well as the President of the United States; and although I have ever been his political friend, and ever expect to be so, yet, if the President on any occasion or occasions assume a position which I can not endorse, I have the right, and will maintain it—as well here as at home—to express my sentiments without intending, desiring, or wishing to convey any censure. I represent the same people that the President does, and, as such representative, I have a right to express my views on all questions pertaining to the Government. If the adoption of my resolutions, which contain the immutable principles of truth, shall bring war on us, let war come! What American is there who, through fear of war, would hesitate to declare the truth in this Chamber?

There has been a singular course pursued on this Oregon question contrasting strangely with a precisely similar question—the annexation of Texas. Texas and Oregon were born the same instant, nursed and cradled in the same cradle—the Baltimore Convention—and they were at the same instant adopted by the democracy throughout the land. There was not a moment's hesitation, until Texas was admitted, but, the moment she was admitted, the peculiar friends of Texas turned, and were doing all they could to strangle Oregon! But the country were not blind or deaf. The people see, they comprehend, and I trust they will speak. It is a most singular state of things. We were told that we must be careful not to involve ourselves in a war with England on a question of disputed boundary. There was a question of disputed boundary between us and Mexico; but did we hear, from the same quarter, any warnings against a collision with Mexico when we were about to consummate the annexation of Texas?

Senator Hannegan closed by saying that he never would consent to a surrender of any portion of the country north of 49 degrees, nor one foot by treaty or otherwise under the line of 54 degrees 40 minutes north latitude.

Mexico instead of Great Britain that we had had to deal, we should have given this notice and been in possession of the territory fifteen years ago.

Great Britain will calculate the effect of the measure on her own interests, and, if she finds they are not likely to be benefited, she will find a way to evade a contest. She has colonies which she cannot afford to lose, while our possessions lie contiguous, and are confined to our soil. And even could she obtain Oregon, she would not be able to retain it twenty-five years before it would be reached and occupied by an advancing population which is doubling every few years. The first act of our Government, in case of war, would be to expel the British power from all her possessions on this continent. Knowing this, she will count the cost before she goes into a war. Before she could assail us, she would have to cross three thousand miles of the Atlantic. All the armed navies she could collect could not subjugate this country.

Of all the five allied Powers of Europe, England is the weakest. A single defeat ensures her fall.

During the wars of the close of the last century she was compelled to incur her heavy debt in order to pay the foreign navies which she subsidized, taxing her people to the amount of sixty-five millions of pounds annually for twelve years. And notwithstanding she has enjoyed thirty years of peace, this enormous debt still remains unreduced, and her taxes amount now to fifty-two millions of pounds per annum—little less than when she had all the navies of Europe in her pay. She is at this moment a pauper; for in one year, when her taxes amounted to fifty-two millions, the total value of her exports reached only fifty-one millions. Yet in this condition of weakness and poverty she is held up to us as a power from which we are to turn and run. Our Government is strong enough for all the purposes of our destiny, and nothing is required but to expel the delusion which has been thrown about the public mind as to the power of Great Britain. All we have to do is, to do as her statesmen do—not to depreciate our own power while we exaggerate hers.

We have existed more than half a century, unstained by the blood of a single individual for political offences. With twenty millions of people, powerful enough to do wrong, and five thousand prisons, there is not one of these twenty millions incarcerated in one of these prisons on any political charge. A short time since there was one imprisoned for a political offence,¹ but so strong was the force of public sympathy in his

¹ William Lloyd Garrison.

favor that even they who imprisoned him opened the prison doors and invited and urged and coaxed him to accept of his liberty. Throughout the remoter sections of our country, a magistrate is mounted on his horse, travels to a distant courthouse, holds his court, pronounces judgment, and secures the execution without the aid of a sword or even a cudgel. And this because the hearts of the people vindicate the supremacy of the laws. It is thus that we possess all the elements of the strongest government by which mankind was ever banded together. We then can have no fears of Great Britain.

All this arises from the fact that, instead of being in the rear of our institutions, the people are always in advance of those who are in power. The people have no fears of Great Britain; and if in our national councils is to be found something like timidity, it is owing to the fact that delegated power is always more fearful of responsibility than that which is primitive. It is the policy of Great Britain boldly to assert a claim, and then, by giving us the alternative of yielding or fighting, to obtain the surrender of a part of it. It is our duty to exhibit no symptoms of quailing to Great Britain, but to treat her as she has treated us. When she talks of power, let us talk back to her of power. When she strips for a fight, let us strip. With the bravest people in the world, what cause have we for fear? Let this resolution pass—and I know this body well enough to be sure that it will pass easily, and that all the other measures to which it will lead will also pass—and we shall hear no more of war.

Senator Benton spoke against the continuance of the joint-use convention.

Abram and Lot, although they were brethren, and sent to the chosen spot by the Deity himself, could not live together in the wilderness without strife. They had to separate to avoid contention. It must be so with the British and Americans on the Columbia, and worse. The two people can neither live together without law and government nor with double law and government. The condition is impossible. Collisions, violence, bloodshed must ensue if we leave the people as they are. It is our duty to prevent these mischiefs, and we become responsible for all that may happen if we do not prevent them.

The first step is to terminate the joint convention, and to recover our right to the complete possession of the Columbia under the Ghent treaty. We have a right to the possession

acter should influence those who are intrusted with a nation's destiny. No hasty conclusions between individual negotiators; no little pouting and fretting, or strutting upon the stage, can be any justification to the American people, or before the world at large, that out of these cabinet squabbles or diplomatic quarrels two nations and the world shall be set to war and to cut each other's throats. A great majority of the Senate is anxious—we are all anxious for peace. A majority is decidedly in favor of preserving the peace of the country honorably, and of settling this question peaceably and honorably, by compromise, negotiation, arbitration, or by some other mode known and recognized among nations as a suitable and proper and honorable mode of settling national questions.

SENATOR WEBSTER.—The President can expect nothing but a continuance of this dispute or its settlement by negotiation. I am bound to suppose that he expects its settlement by negotiation. What terms of negotiation? What basis of negotiation? What grounds of negotiation? Every thing that we hear from the Executive department is "the whole or none"; and yet negotiation! Sir, it is in vain to conceal from ourselves, from the country, or from the world, the gross inconsistency of this course of conduct. I say I do not understand the position in which the Executive Government has placed itself: in favor of negotiation all the time; but all the time refusing to take any thing less than the whole! What consideration—what compromise—what basis—what grounds, therefore, for negotiation? If the Government of the United States has made up its mind—I speak of the Executive Government—that, so far as it is concerned, it will not treat for anything less than the whole of Oregon, then it should say so, and throw itself on the two Houses of Congress, and on the country.

If we will not recede, and England will not give up the whole of her claims, what is more natural than that war is likely to happen?

I am desirous of expressing my judgment on this subject, whenever I can do so without embarrassing the Administration. If negotiations be pending, I wish to hold my tongue. It shall be blistered before I would say anything derogatory to the title of the United States while the Government of the United States was engaged in negotiating for that territory on the strength of our title. Gentlemen see the embarrassment in which we stand. I will aid the Administration in all honorable efforts to obtain all that belongs to us, and all that we can rightfully and honorably acquire with all my heart—with all my heart. But,

of that river and its valley under the treaty of Ghent. We hold a treaty with the British for our right of possession, and we have the amplest admission of a British minister, Lord Castlereagh, of our right to be the party in possession while treating of the title, and until the title is decided. Let us resume these great rights, so improvidently lost for thirty years by the delusive convention of 1818. The notice is necessary to this resumption, and I rejoice that the moment is at hand for giving it.

The notice is a peace measure, and can operate no way but beneficially. It will give us the immediate and exclusive possession of one-half the contested country, with the right of possession until the title to the whole is decided. This will separate the people, and keep peace among them, and will bring to conclusion this aged and barren negotiation which has produced no fruit in thirty years. It will change the condition of parties and make the British themselves desire negotiation. As long as things remain as they are, they are content. They have the exclusive possession of three-fourths of the country, and the joint use of the remaining fourth: this is all they ask, and more than they ask, in the way of territory. They have the free use of the river and its harbor, for the export of their furs and the importation of goods from Europe and Asia, without paying of duties: this is all they could ask in the way of navigation. They have law for the government of their people: we have none. And, more than all, they have an excuse for not complying with the Ghent treaty—an excuse which must fail them as soon as the notice takes effect, and leave them under the necessity of evacuating the country or violating a treaty for the execution of which we hold their order. As things are, the British are content. They want no change. The joint convention, while it stands, gives them all they ask, and more too. They fear its termination: they fear the notice! But they are not going to make war for the notice. It will make them treat, not fight.

SENATOR CRITTENDEN.—They who should involve this country in a needless war will bear responsibility heavy enough to sink a navy, sir. Let them be warned. To defend the rights of their country is one great duty. To protect the interests of their country is their duty; and of those interests peace is the greatest and mightiest of all. These duties are not inconsistent. It is no vaunting spirit that is to be acted on here. No fanaticism in politics must be suffered to guide the counsels of a great nation upon so solemn and serious a question. Considerations of a much more profound, of a higher and nobler char-

then, as a citizen of the country, I claim a right to know something of the views, purposes, expectations, and objects of the Administration. I cannot reconcile myself to be much longer kept in a posture of things in which no preparations are made to defend the country—in which negotiation is held out every day as that course of proceeding which is expected to bring the question to a settlement, and to settle the question by England giving up the whole matter in dispute. In my opinion, it is not the judgment of this country that, at the hazard of a war, we shall now reject as no longer proper for our consideration propositions made and repeated twenty years ago. Compromise I can understand—arbitration I can comprehend—but negotiation, with a resolution to take and not to give—negotiation, with a resolution not to settle unless we obtain the whole of our demands, is what I do not comprehend in diplomacy or matters of government.

Senator Cass opposed reopening negotiations with Great Britain.

Mr. President, what right have you to suppose that the British government, under any circumstances, will be influenced in their conduct by your offer to compromise? I do not say they will not; but, without retracing their steps before the world, without gainsaying much they have said, without relinquishing much that they have claimed, without abandoning much that they have demanded, without retracing their steps before the world, and doing what a proud nation does with great reluctance, I cannot see how the difficulty is to be avoided.

Senator Breese belittled the power of Great Britain and prophesied that in the event of war with her our damage would be limited to the loss of a few merchant ships.

The Senator from New Jersey replied to him:

SENATOR DAYTON.—The Senator from Illinois [Mr. Breese] takes no account of the oceans of blood to be spilled in case of a war in this controversy; he takes no account of the wretchedness in every form which is to tread in the track of this war; he makes no account of the taxes that will harass the people; he forgets the fact that war has retrograded the position of the world; that it would stop at one blow all our internal improvements; diminish the wealth

and cripple the resources of the country; he forgets that it is peace that makes our railroads, peoples our hill-sides, and plows our prairies. He takes no account of all this. He thinks, upon a point like this, when all are united and so very desirous for 54° 40', if we only wake up we will astonish ourselves! Why, if such language as this were to come from some persons who stood backside of the Allegheny mountains, I should think it was irony—the very bitterness of irony; but coming from my friend from Illinois, distinguished for his courtesy, I know that it is nothing but—54° 40'!

I cannot but feel that all this argument in reference to the relative power of our adversary, rating or berating her, is in very questionable taste in existing circumstances. If we are forced to touch her shield with the point of the lance, let us do it with the chivalrous feeling and dignity of a high-toned nation. Then let each wheel into position, and God defend the right. I am willing to go to the American people on principles of compromise. I am persuaded that the people will sustain the man and the Administration that settle this question on that basis. It is a common notion that the war party of this country must be the popular party of the country. I do not believe it. It is an error; and it is an error which tends to produce the very mischief that would have no existence without it. There is always to be found a class of men who prefer arranging themselves with that party which is supposed to be a popular party in the country. Now it would be a great public benefit to explode the error that a war party would be popular in all circumstances. Heretofore our wars have been popular because they have been wars for great principles, and not wars for mere property. The Revolutionary War, I need not say, was not a war about three cents on a pound of tea. It involved the rights of man—the great principles of free government. The late war was not a war about property; it was about principles all over—the freedom of the seas—the honor of our flag. Like causes will produce like effects; and, in the same, or like, circumstances, war would be popular again. But think you that a war about the pine logs of Maine would have been a popular war? Think you that a war about Oregon, or rather a part of Oregon above 49°, would be a popular war? It might be so at the beginning with certain classes; but the brunt of the war—the taxes to carry it on—would fall upon a different class of men altogether—on honorable, prudent, thinking men; on your merchants and mechanics. These are the men who would be nec-

¹ In other words, *duncombe!*

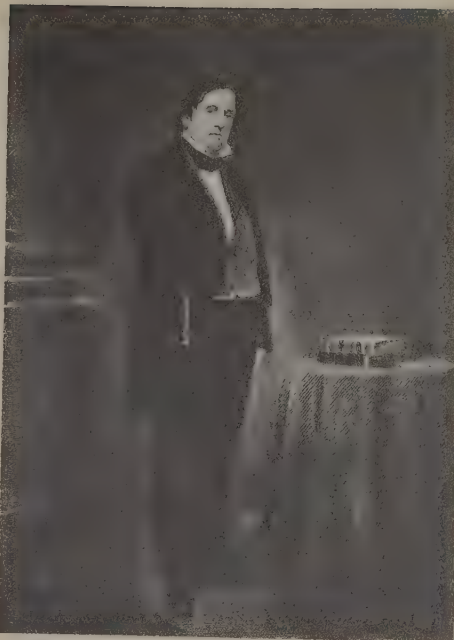
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essarily compelled to bear the brunt of the war. As long as your war is a war of principles these men will stand by you; as soon as it becomes simply a war of property they will count the cost.

The intelligence, the prudence, the thought of this country must govern the country at last. Unless it be so, your institutions, which place the power in the hands of the people are an empty name. Public men are sometimes too apt to distrust the capacity of the people to govern themselves; they are too apt to draw back from the control of public opinion. But we need never despair of the people, when a man can stand on this floor and speak in a voice that shall reach every hamlet beyond the mountains—never, never. Let the public men of this country, of both sides of this Chamber, stand up to their responsibilities and the people will stand by them. Popular sentiment is not always right. The needle itself is not forever constant to the pole. But the hidden influence is there. Remove extraneous and disturbing causes—give the public mind fair play; it may vibrate for a time, but at last it settles—tremulously perhaps, but faithfully—to the north. Let the public men of this country who believe that a war for 54° 40' would be wrong but do their duty, neither the present Administration nor any other Administration dare involve the country in such a war. If they do, whatever may be their purity, their patriotism, a political blunder of that magnitude would inevitably bring any Administration, and all its aiders and abettors, to the block.

SENATOR HAYWOOD.—This question of Oregon had been turned into a party question, for the purpose of president-making. I repudiate any submission to the commands of factious meetings, got up by demagogues, for the purpose of dictating to the Senate how to make a treaty. I do not regard such proceedings as indicative of that true Democracy, which, like a potato, grew at the root, and did not, like the spurious Democracy, show itself from the blossom. The creed of the Baltimore convention directs the party to reannex Texas and to reoccupy Oregon. Texas has been reannexed, and now we are to go for the reoccupation of Oregon. Now, Old Oregon, embracing all the territory on which American foot ever trod, comprised merely the valley of Willamette, which did not extend above 49°; and, consequently, this portion was all which could be contemplated in the expression "reoccupation," as it would involve an absurdity to speak of reoccupying what we had never occupied.



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Senator Hannegan denied that the resolution of the Baltimore convention referred merely to "Old Oregon," and asserted that, by the expression "the whole of Oregon," they claimed the entire territory in dispute.

The Democratic party is thus bound to the whole of Oregon—every foot of it; and let the Senator rise in his place who will tell me in what quarter of this Union—in what assembly of Democrats in this Union, pending the Presidential election, the names of Texas and Oregon did not fly together, side by side, on the Democratic banners. Everywhere they were twins—everywhere they were united. "Texas and Oregon" cannot be divided; they dwell together in the American heart. Even in Texas I have been told the flag of the lone star has inscribed on it the name of Oregon. Then it was all Oregon. Now when you have got Texas, it means just so much of Oregon as you, in your kindness and condescension, think proper to give us. You little know us if you think the mighty West will be trodden on in this way. Let gentlemen look at their own recorded votes in favor of taking up the Oregon bill at the close of the last session, and then let them look at the language of that bill and see if it did not propose to take possession of Oregon up to 54° 40', after giving unqualified notice to Great Britain that the convention must cease.

The Senator from North Carolina [Mr. Haywood], in his defence of the President, put language into his mouth which I undertake to say the President will repudiate, and I am not the President's champion. I would not be the champion of power. I defend the right, and the right only. But, for the President, I deny the intentions which the Senator from North Carolina attributes to him—intentions which, if really entertained by him, would make him an infamous man—aye, an infamous man. He (Mr. Haywood) told the Senate yesterday—unless I grossly misunderstood him, along with several friends around me—"that the President had occasionally stickings-in, parenthetically, to gratify—what?—the ultraisms of the country and of party; while he reposed in the White House with no intentions of carrying out these parenthetical stickings-in." In plain words, he represents the President as parenthetically sticking in a few hollow and false words to cajole the "ultraisms of the country." What is this, need I ask, but charging upon the President conduct the most vile and infamous? If this allegation be true, these intentions of the President must sooner or later come to light, and when brought to light, what must follow

but irretrievable disgrace? So long as one human eye remains, to linger on the page of history, the story of his abasement will be read, sending him and his name together to an infamy so profound, a damnation so deep, that the hand of resurrection will never be able to drag him forth. He who is the traitor to his country can never have forgiveness of God, and cannot ask mercy of man.

The last steamer from Europe, it is said, puts this question in such a position that for Oregon we can get free trade. Free trade I love dearly; but never will it be bought by me by the territory of my country. He who would entertain such an idea is a traitor to his country. I speak for myself, and my own section of the country. Free trade for a surrender of the ports and harbors on the Pacific? Never, sir; never. Whence this movement for free trade on the part of England? Does not everyone know that she has been driven into this course by the outcries of starving millions? That she has been forced into this policy by the land owners, to save their lives from the knife of the midnight assassin, and their palaces from the torch of the prowling incendiary? But the West is to be provided for; it is to have a new and most profitable market. Some of us know that from the Baltic England would get her wheat long before we could send a ton into her market. I advert to this simply because I do not know that I shall have another opportunity to do so. I have only to add that, so far as the whole tone, spirit, and meaning of the remarks of the Senator from North Carolina are concerned, if they speak the language of James K. Polk, James K. Polk has spoken words of falsehood, and with the tongue of a serpent.

SENATOR CALHOUN.—Peace is preëminently our policy. There are nations in the world who may resort to war for the settlement of their differences, and still grow great; but that nation is not ours. Providence has cast our happy inheritance where its frontier extends for twenty-three degrees of latitude along the Atlantic coast. It has given us a land which in natural advantages is perhaps unequaled by any other. Abundant in all resources; excellent in climate; fertile and exuberant in soil; capable of sustaining, in the plentiful enjoyment of all the necessities of life, a population of two hundred millions of souls. Our great mission as a people is to occupy this vast domain—there to fulfil the primeval command to increase and multiply, and replenish the land with an industrious and virtuous population; to level the forests, and let in upon their solitude the light of day; to clear the swamps and morasses and redeem

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common sense—if we succeed in preserving our constitutional liberty, we shall then exhibit a spectacle such as the world never saw. I know that this one great mission is encompassed with difficulties; but such is the inherent energy of our political system and such its expansive capability that it may be made to govern the widest space. If by war we become great, we cannot be free; if we will be both great and free, our policy is peace.



PRESIDENT CASS BEGINNING OPERATIONS, LOSING NO TIME
[General Taylor on left and General Scott on right.]
From the collection of the New York Historical Society

SENATOR CASS.—I am a firm believer in the sure and mighty efficacy of the great agent Time, but I believe that Great Britain will not herself permit this state of things to continue. "Whoever has Oregon will command the North Pacific" is the language which has been used in England; and it is to be expected that she will quietly witness the occupation of that country by a dense population of American citizens? If she will ever abandon the country, she will do it now, when there can be no dishonor in giving it up; not when there has grown up there a great power capable of resisting her.

The evils of war have, in my opinion, been too gloomily represented by the Senator from South Carolina. Admitting that a war of ten—of five—years will be disastrous to us; it cannot exist without bringing into collision the great questions of our day—the right to govern and to obey. But, if it were to be

them to the plow and sickle; to spread over hill and dale the echoes of human labor and human happiness and contentment; to fill the land with cities, and towns, and villages; to unite its opposite extremities by turnpikes and railroads, to scoop out canals for the transmission of its products, and open rivers for its internal trade. War can only impede the fulfillment of this high mission of Heaven; it absorbs the wealth and diverts the energy which might be so much better devoted to the improvement of our country. All we want is peace—established peace; and then time, under the guidance of a wise and cautious policy, will soon effect for us all the rest.

I say time will do it, under the influence of a wise and masterly inactivity—a phrase than which none other has been less understood or more grossly misrepresented. By some who should have known better it has been construed to mean inaction. But mere inertness and what is meant by a wise inactivity are things wide apart as the poles. The one is the offspring of ignorance and of indolence; the other is the result of the profoundest wisdom—a wisdom which looks into the nature and bearing of things; which sees how conspiring causes work out their effects, and shape and change the condition of man. Where we find that natural causes will of themselves work out our good, our wisdom is to let them work; and all our task is to remove impediments. In the present case, one of the greatest of these impediments is found in our impatience.

He who cannot understand the difference between an inactivity like this and mere stupid inaction and the doing of nothing is as yet but in the horn book of political science. Yes, time—ever-laboring time—will effect everything for us. Our population is now increasing at the annual average of six hundred thousand. Let the next twenty-five years elapse, and our average increase will have reached a million a year, and, before many of the younger Senators here shall have become as gray-headed as I am, we shall count a population of forty-five millions. Before that day, it will have spread from ocean to ocean. The coasts of the Pacific will then be as densely populated and as thickly settled with villages and towns as the coast of the Atlantic is now. In another generation we shall have reached eighty millions of people, and, if we can preserve peace, who shall set bounds to our prosperity, or our success? With one foot planted on the Atlantic and the other on the Pacific, we shall occupy a position between the two old continents of the world—a position eminently calculated to secure to us the commerce and the influence of both. If we abide by the counsels of

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even more disastrous than he represented, was it right for the Senator to make the prediction that such a war would produce the overthrow of this Government? In that view, a war would at once be a signal of destruction, and we have nothing left but, when smitten on the one cheek, to turn the other. I believe that, although we should suffer severely, we should come out from another conflict with many glorious wreaths on our brows.

Many a raven has croaked in the last war. Many a Cassandra has foretold the ruin of the country. But nothing has come of their forebodings. I regard our country as the strongest for good, and the weakest for evil, in the world. Resting on public opinion, it is the only Government in which there can be no revolution.

Similar resolutions to those of Senator Allen were introduced in the House by Charles J. Ingersoll (Pennsylvania) on January 5, 1846, who on February 9 also introduced a joint resolution of the House and Senate to give Great Britain notice of the termination of the convention. The joint resolution passed on the same day by a vote of 163 to 54. It passed the Senate on March 31 by a vote of 40 to 14.

THE OREGON COMPROMISE

HOUSE OF REPRESENTATIVES, JANUARY 5-FEBRUARY 9, 1846

Speakers in the House in favor of insisting on "the whole of Oregon" were Henry W. Hilliard (Alabama), Howell Cobb (Georgia), Stephen A. Douglas (Illinois); those opposed to it were William L. Yancey (Alabama), Robert M. T. Hunter (Virginia) and Jefferson Davis (Mississippi).

MR. HILLIARD.—England and the United States are the only competitors for the trade of Southern China. England imports every year four hundred and fifty thousand chests of tea, while we import two hundred thousand, besides muslins and silks and other commodities of great value. In this gainful traffic, England regards us as a rival power, and she is by no means disposed to give it up. The coast of Oregon fronts that of China, and presents great facilities for carrying on this important branch of our commerce. Fully to avail ourselves, however, of these advantages, we ought to connect Oregon with the State

of Missouri by the construction of a railroad. This is not so wild and visionary a scheme as at the first view some gentlemen might be disposed to consider it. Let them reflect that it is but fifteen years since Mr. Huskisson lost his life between Liverpool and Manchester, in an experimental trip over the first railroad ever constructed in England. And what was she doing in that system now? And then look on the Continent, and see one continuous line of railroad, extending twenty-seven hundred miles, entirely across Europe, from Odessa to Bremen, while another line extends from the Adriatic for near a thousand miles. And yet gentlemen stand here and look agast when anyone speaks of a railroad across our continent, as if it were something wondrous and altogether unheard of before.

Should such a road be constructed, it will become the great highway of the world; we shall before long monopolize the trade of the eastern coasts of Asia. At present the shortest possible voyage from London to Canton occupies seventy days; but by such a railroad a traveler might pass from London to Canton in forty days. There is no wildness, no extravagance in the idea; but it is a matter of sober sense and plain calculation. What a magnificent idea does it present to the mind, and who could calculate the results to which it would lead? With a route so short and so direct as this, may we not reasonably hope, in a great measure, to command both the trade and the travel of the world? Engrafted on this plan, and as its natural adjunct is the extension of a magnetic telegraph, which should follow the course of the road; unite the two, and where is the imagination which can grasp the consequences?

When Oregon shall be fully in our possession, when we shall have established a profitable trade with China through her ports, when our sails traverse the Pacific as they now cross the Atlantic, and all the countless consequences of such a state of things begin to flow in upon us, then will be fulfilled that vision which wrapt and filled the mind of Nuñez as he gazed over the placid waves of the Pacific.

MR. YANCEY.—We are now on the very portals of success in carrying out those noble principles of government which our fathers bequeathed to us, and which, if once wholly in operation, will do more than anything else to advance the cause of liberty and happiness. We have just purged the old Republican party of that system of bastard Republicanism which the war of 1812 bequeathed to the country, and have infused into it a new life and energy. We are on the point, too, of purchasing the magnificent territory of California, which, with Oregon, would

ing possession of that disputed land is far preferable to any more bloody issue.

I would go a step further than the notice, and extend the protection of our laws over our citizens in Oregon. If we do not, we shall fall short of our duty. After doing this, I would go still further, and create those bands of iron which were to bind indissolubly together in one union the people of the Atlantic and the people of the Pacific. I would go for a railroad across the Rocky Mountains—for annihilating time and space between us and the inhabitants of the Pacific coast. In a military point of view, this railroad will be necessary. We shall be obliged, for the protection and defence of the country, to establish this mode of communication. While it will afford military protection for the defence of the country, it will be the means of creating a vast trade between the Eastern and Western portions of the continent. The immediate consequence of such a trade will be to open a traffic in our manufactures with the people of the East Indies; next, we shall be able to drive out all competition on the part of the British fabrics in that lucrative and important trade. We will, by means of this overland communication, be soon able to create immense commercial depots on the coast of the Pacific. We can make voyages to the East Indies in half the time that Great Britain can. Our manufactures will thus compete in that important and increasing market with those of Great Britain, and, indeed, drive out all competition; and thus they will become established on a firm foundation, without the aid of a black tariff to maintain them. I have always opposed internal improvements by the general Government; but I would adopt this improvement as a military work—one necessary for the public defence, though it would be used for civil and commercial purposes.

MR. DOUGLAS (chairman of the Committee on Territories).—We propose, on the part of the United States, to give notice for the termination of that treaty of 1827 which continued in force the convention of 1818; and we are met by the declaration that this notice is a hostile movement—that it is a war measure—that it is equivalent to a declaration of war by this country against Great Britain; and hence we are called upon to pause and reflect before we make this movement, which may bring the thunders of the British fleet and of the British army to our shores; and appeals are made to our fears in order to deter us from adopting this measure. Sir, I know not whether the giving this notice and the annulment of the treaty may lead to war or not; I know not whether war will be the result. But,

give us a breadth of Pacific coast suited to the grandeur and commercial importance of our Republic.

All this would be blighted by war. California would be lost to us; Oregon would be lost to us. A debt of five hundred millions would be imposed upon the country. The paper system, in its worst form, will necessarily have been imposed upon us. The pension list—that spring of life and immortality to patriotic valor—would be almost indefinitely increased. The Government will have become centralized; its checks weakened; its administration federalized in all its tendencies. The fabric of State rights will have been swept away, and remain only as a glorious dream; and a strong military bias will have been given to the future career of our country, which, while it may be splendid in appearance, will bear within itself the certain elements of destruction.

I have endeavored, Mr. Chairman, to demonstrate that giving to England notice that we design to take exclusive possession of Oregon will produce a war; that war will either terminate in the loss of Oregon or in effecting nothing toward perfecting possession in us; that England will not give the notice, and that neither the honor nor the wants of the country require us to do so.

I now propose to show, sir, that a system of peaceful measures will tend much more effectually to give us "all of Oregon" than warlike movements will.

I am willing to raise mounted regiments sufficient to protect emigration to Oregon over our vast Western plains.

I am ready to build such a station at the South Pass as will enable the emigrants, as they reach a point from which they can look upon the vast Atlantic slope on the one hand, and that of the Pacific on the other, to recruit and refit there.

I am ready to cover our people there with the ægis of our laws to the extent that England has protected her subjects.

I am ready to offer such other and more tempting inducements to its settlement as gentlemen may devise, in order that, in five years' time, one hundred thousand men may be thrown in the vales and amidst the hills of this disputed land.

It would then be a part and parcel of our Union. As such, it never could be conquered. I sincerely believe what was the wish at the time of Lord Castlereagh, expressed twenty years ago to our minister—"Why are you Americans so anxious to push this negotiation? In a short time you would conquer Oregon in your bed-chambers." And most assuredly this will not be deemed treason in me, if I say that such a mode of perfect-

sir, there is one thing which I do know—and a thing which is far more important in the decision of this question than the other—and that one thing is this: that the giving of this notice will afford no just cause of war. It is immaterial with reference to influencing our decision of this question whether war is to be the consequence or not; but it is important for us to inquire whether the act we are about to perform will give good ground of offence—just cause of war. If it will, we ought to pause and consider well before we proceed. But if it give no just cause of war, it is no argument that Great Britain will choose to *make* it a cause of war.

If gentlemen will reflect a moment on the history of this question, they will find that, at the breaking out of the late war, the valley of the Columbia river was in the possession of citizens of the United States; that, during that war, it was captured by Great Britain; and that by the treaty of peace it was provided that all countries captured by Great Britain should be restored to us. I hold in my hand the first article of the treaty of Ghent. In it, it was agreed that "all territory, places, and possessions, whatsoever, taken by either party from the other during the war, or which may be taken after the signing the treaty, excepting only the islands hereinafter mentioned [in the Bay of Fundy], shall be restored without delay."

The treaty of peace then provided for the restoration of all places, possessions, or territories captured by either party. Sir, as quick as that treaty was ratified and published to the world, the American Government demanded of Great Britain the restoration of the valley of the Columbia river in pursuance of the treaty. What did Great Britain do? She objected; she set up a claim to that country; she said it was a part of the British empire. But, sir, you find by examining the negotiation at that time that, notwithstanding all her objections, when Mr. Rush replied to them, that by the treaty we were entitled to the full possession, or repossession (in his own language), she admitted that right, and she acknowledged that the United States under the treaty of Ghent were entitled to the actual, the full repossession of the valley of the Columbia, and that we had the right to remain in possession while negotiating of the title.

Then, Great Britain, in pursuance of that treaty, did surrender the settlement of Fort George in the Columbia valley. That settlement was not merely a fort; not merely a fort was surrendered, but the settlement comprising Astoria and several other posts, and that settlement commanding the whole valley of the Columbia river. It was, then, the valley of the Columbia

that was surrendered by the British Government, which government then acknowledged the right of the American Government "to be reinstated, and to be the party in possession while treating on the question of title."

That was the relative position of the two parties prior to entering into the treaty of joint occupation—the United States in possession, Great Britain setting up a claim, but acknowledging our right to the possession while adjudicating the claims of the respective parties. That would have been our right had it not been for that treaty. That treaty suspends that right; but it provides that nothing in it shall be construed to impair or affect the rights of either party. Hence, if you terminate the treaty, if you annul the treaty, the right of the United States to exclusive possession under the treaty of Ghent is revived, and Great Britain cannot—dare not—resist the restitution of the Columbia valley. It is no cause of war—no war movement. It is carrying into effect our treaty stipulations; and the effect of giving this notice will be to suspend the joint occupancy, to restore possession to us; and, when in possession, we will be ready to treat upon the title, and not till then. Is it, then, a matter of no consequence which party is in possession while treating upon the title? Carry on the negotiation now, leave the treaty of joint occupation in force, and Great Britain is the party in possession; but give this notice, terminate the treaty, and the United States will be the party in possession. But gentlemen may say that Great Britain will never acknowledge this exclusive right of the United States to the possession of the valley of the Columbia before the question is settled. In reply to this, I say that Great Britain has acknowledged that right; and that she has not only acknowledged it in words, but by a solemn act that must stand prominent in the history of that government; so long as that history shall exist, she has estopped herself from denying our right to the possession. She has once acknowledged it, and has once restored possession under that acknowledgment. Can she refuse again to make a similar restoration when the parties in respect of their rights are similarly situated? If she does refuse to make that restoration when the notice shall have been given and shall have expired, she will have to violate her solemn treaty stipulations; she will become the aggressor; she will be violating her plighted faith in the eyes of the civilized world; and she dare not take the responsibility of such an act of perfidy and bad faith after she herself has once acknowledged her obligations by performing the same act of surrender.

Gentlemen who oppose giving the notice say that they are

bloody and destructive war. Nor am I prepared, on the other hand, to go with those who fearlessly assert that there is no danger to result from our action in reference to Oregon. I plant myself on this ground that the prosecution of the just rights of my Government is the course called for by the national faith and honor of my country. If peace be the result, I shall gladly welcome it. If war be the consequence, we must meet it. It is a crisis not to be avoided, not to be evaded, but to be met with boldness, firmness, and decision. When we have discharged our duties, then, sir, it will be for another department of our Government, and for the government with whom we are in collision upon this subject, to do what they may conceive to be their duty. That we should suffer from a war I do not pretend to deny; that we shall lose the Oregon Territory by resorting to war, I utterly but respectfully repudiate the idea. Whenever this Government shall be engaged in a conflict of this kind with the British Government or with any other government on earth, peace will never be declared upon terms leaving one foot of territory which has ever been consecrated to American freedom and American principles afterward to be profaned by monarchical or despotic principles. No; Canada may be acquired; I do not dispute that position of gentlemen who have argued this proposition before the House; but that Oregon will ever be abandoned peacefully, or in the struggle of war, my mind has never been brought to that conclusion, nor will it be. Sir, upon this day, this memorable, glorious 8th of January,¹ let it not be said by American statesmen, in an American Congress, that this Government can be injured, can be deprived, can be weakened in her just and unquestionable rights by a conflict with Great Britain, or with any other government. If war come, I venture the prediction that when it terminates we will have the consolation of knowing that not a British flag floats on an American breeze; that not a British subject treads on American soil. There is where war ought to terminate, if come it must; there is where I believe and trust in Heaven it will terminate.

MR. HUNTER.—Mr. Chairman, I appeal to all candid and reflecting men from the West—to those who go for Oregon and the whole of Oregon—to those who might desire war for Oregon, but who do not desire Oregon for war—I appeal to these men to let this controversy remain as it is. Let us not renew the negotiation; make no more offers to Great Britain; but let us trust to the process of colonization now so rapidly in prog-

¹ The anniversary of the Battle of New Orleans.

for getting possession. But how getting possession? Why, they are for continuing the treaty of joint occupation in force, and then for stealing possession in violation of that treaty of joint occupation. Yes; they are for adopting the high, the chivalrous course of stealing into that country under a treaty of joint occupation, and then seizing it in violation of the treaty itself. Will that not lead to war? Is that the peaceful remedy? Will not that wound the pride of the British Government? Sir, I aver that the attempt to carry that policy out leads inevitably to war; and not only to war, but it puts us on the wrong side. It convicts our Government of an act of duplicity and perfidy. It arrays the whole civilized world against us, and renders us subject to the charge that we are faithless and dishonorable. But if we rely on the treaty stipulations of the country—if we stand high on our undeniable rights, and give the notice according to the treaty, and demand possession under the treaty of Ghent, and insist upon it—if we require the surrender, as we have done once before—then, sir, we get peaceful possession of that country; and, when in peaceful possession, we can then stand on high ground and say to Great Britain: "Certainly we deprecate war; we are ready to negotiate, and are willing you should take your own time to bring that negotiation to a determination. You may do it with all the care, with all the deliberation you may desire; and you can take your own time to terminate it." But, in the mean time, we are in possession, with the acknowledged right of possession, until we arrive at an amicable adjustment.

For one, I never will be satisfied with the valley of the Columbia, nor with 49°, nor with 54° 40'; nor will I be, while Great Britain shall hold possession of one acre on the northwest coast of America. And, sir, I will never agree to any arrangement that shall recognize her right to one inch of soil upon the northwest coast; and for this simple reason: Great Britain never did own, she never did have a valid title to, one inch of that country. The question was only one of dispute between Russia, Spain, and the United States. England never had a title to any part of the country. Our Government has always held that England had no title to it. In 1826 Mr. Clay, in his dispatches to Mr. Gallatin, said: "It is not conceived that the British Government can make out even a colorable title to any part of the northwest coast."

MR. COBB.—Mr. Chairman, I am not prepared to go to the full extent with some who declare that the inevitable result of the passage of this notice will be to involve this country in a

ress, and we shall quietly, peaceably, and certainly obtain the whole of what we claim. I care not how glorious the war may be, it would be better to avoid it; for it is in this way alone that we may reasonably hope to obtain what gentlemen so ardently desire—"the whole of Oregon."

Sir, the making of any treaty fixing a boundary would be a palpable violation of the very principle the President has put forth in his message. Bearing this point in mind, gentlemen will easily understand the meaning of the President in all his recommendations—when he said that no compromise of this question could be made which the United States ought to accept—when he said that he reasserted our claim to the whole continent, and maintained it by irrefragable facts and arguments—when he said that the notice must be given and the exclusive possession regained—when he said our laws must be extended there—when he said that at the end of the year the time would have arrived when we must either maintain our claim or abandon the whole of it.

But gentlemen say we must not assert this broad doctrine—this principle of American independence of all European crowns—because they say it will lead to war. Well, sir, I know not nor care whether it will produce war or not; although I am not for war, I prefer war to the abandonment of duty and honor. Did our forefathers abandon their resistance to the Stamp Act because it would lead to war? There was a panic party in the country then as now—a peace party; but the patriots did not abandon their resistance. They stopped only to inquire as to the question of right: "Does our duty to ourselves and to our country require us to do it? and, if so, we will do it at the hazard of life, property, and sacred honor." That was the principle that animated them.

Sir, at a later period the States of this country did not abandon the embargo because it would lead to war. They did not relinquish their opposition to the impressment of American seamen because it would lead to war. At a later date they did not falter on the French indemnity because it would lead to war; nor upon the right of search, nor at a still later day on the Texas annexation. Sir, the war argument, the war panic—that stereotyped argument of all men that predicate their action upon the timidity of the people—their war argument was used then as it is now. The only question, then, for us to determine is, as our forefathers did, Is this policy right, Have we the right to maintain it? If we have the right, it is our duty to maintain it at the hazard of war: First, sir, in demanding and

obtaining exclusive possession of the valley of the Columbia river, as a peace measure under the treaty of Ghent; second, in refraining from all and any negotiation about title until our possession shall be restored; and, thirdly, in maintaining this position of undying, unyielding opposition to any future European colonization on the American continent. Do this firmly, boldly, unitedly, and let the consequences, sir, take care of themselves.

MR. DAVIS.—It is as the representative of a high-spirited and patriotic people that I am called on to resist this war clamor. My constituents need no such excitements to prepare their hearts for all that patriotism demands. Whenever the honor of the country demands redress, whenever its territory is invaded, if then it shall be sought to intimidate by the fiery cross of St. George—if then we are threatened with the unfolding of English banners if we resent or resist, from the gulf shore to the banks of that great river throughout the length and breadth, Mississippi will come down to the foe like a stream from the rock. And whether the question be one of Northern or Southern, of Eastern or Western aggression, we will not stop to count the cost, but act as becomes the descendants of those who, in the war of the Revolution, engaged in unequal strife to aid our brethren of the North in redressing their injuries.

Sir, when ignorance and fanatic hatred assail our domestic institutions, we try to forgive them for the sake of the righteous among the wicked—our natural allies, the Democracy of the North. We turn from present hostility to former friendship—from recent defection to the time when Massachusetts and Virginia, the stronger brothers of our family, stood foremost and united to defend our common rights. From sire to son has descended the love of our Union in our hearts, as in our history are mingled the names of Concord and Camden, of Yorktown and Saratoga, of Moultrie and Plattsburg, of Chippewa and Erie, of Bowyer and Guilford, and New Orleans and Bunker Hill. Grouped together, they form a monument to the common glory of our common country. And where is the Southern man who would wish that monument were less by one of the Northern names that constitute the mass? Who, standing on the ground made sacred by the blood of Warren, could allow sectional feeling to curb his enthusiasm as he looked upon that obelisk,¹ which rises a monument to freedom's and his country's triumph, and stands a type of the time, the men, and the event

¹ The Bunker Hill Monument.

CHAPTER XII

THE MEXICAN WAR

William C. Preston [S. C.] Introduces in the Senate a Resolution for the Annexation of Texas; It Is Tabled—John C. Calhoun, Secretary of State, Concludes Annexation Treaty with Texas—It Is Rejected by the Senate—Slavery and Texas as Issues in the Polk-Clay Presidential Campaign—Annexation Bill Introduced in the Senate by Thomas H. Benton [Mo.]; and in the House by Charles J. Ingersoll [Pa.]—Tilt in the Senate Between George McDuffie [S. C.] and John J. Crittenden [Ky.] on Power of Congress to Make War or Peace—Debate in the House on the Ingersoll Bill: in Favor, Mr. Ingersoll, Stephen A. Douglas [Ill.]; Opposed, Robert C. Winthrop [Mass.], John Quincy Adams [Mass.]; Bill Is Passed by Both Houses and Approved by the President—Outbreak of Hostilities—President James K. Polk's War Message—Bill Is Introduced in the Senate Providing for the Prosecution of the Existing War—Debate: in Favor, General Samuel Houston [Tex.], Lewis Cass [Mich.]; Opposed, John C. Calhoun [S. C.], John M. Berrien [Ga.], James D. Westcott [Fla.], Senator Crittenden—Mr. Douglas Introduces Bill in the House to Admit Texas into the Union; in Favor, Mr. Douglas; Opposed, Julius Rockwell [Mass.]; Carried; Debate in the Senate: in Favor, Senator Berrien; Opposed, Daniel Webster [Mass.]; Carried—Bill Is Introduced in the House Making Appropriations for Soldiers at the Front—Debate: Advocates of the War, Mr. Douglas, J. H. Lumpkin [Ga.]; Opponents, Joshua R. Giddings [O.], Columbus Delano [O.], John W. Houston [Del.], John Quincy Adams [Mass.], Robert Toombs [Ga.]—Treaty of Peace—Speech of Senator Thomas Corwin [O.] Against the War—Tilt Between Senators Thomas H. Benton [Mo.] and John C. Calhoun [S. C.] on "Who Is Responsible for the War?"—Abraham Lincoln [Ill.] Introduces in the House His "Spot Resolutions": His Arraignment of President Polk—Treaty of Peace.

EVER since the treaty with Spain, whereby the United States had acquired ownership of Florida at the cost, among other considerations, of foregoing all disputed claims to Texas arising from the Louisiana Purchase, this country had looked with covetous eyes upon the relinquished territory. In 1827 and 1829 the Secretaries of State, Henry Clay and

that it commemorates, built of material that mocks the waves of time, without niche or molding for parasite or creeping thing to rest on, and pointing like a finger to the sky to raise man's thoughts to philanthropic and noble deeds.

On April 23, 1846, both Houses agreed to a new resolution (which was inspired by the Executive Department) authorizing the President, while giving the notice, to *continue negotiations*. The reason for this amendment transpired on June 6, 1846, when the British Ambassador, Richard Pakenham, offered to accept the line of 49 degrees north latitude clear to salt water. The President, desirous of accepting this offer, but unwilling to take the responsibility for receding from his demand of 54 degrees 40 minutes as the boundary, left the decision to the Senate, the majority in which was Whig. To the credit of the opposition it must be said that, while realizing the purpose of the President, they acted as patriots rather than partisans, and advised acceptance. The treaty was ratified accordingly at London on July 17, 1846.

Martin Van Buren respectively, had made cash offers for it to Mexico, \$1,000,000 in the former case, and \$5,000,000 in the latter, but these were refused. All the while the province was being settled by Americans who were desirous of its annexation to this country. Owing to their agitation, Texas, on March 4, 1836, declared its independence from Mexico, and virtually achieved it in a brief war ending with the battle of San Jacinto, April 10, in which General Samuel Houston, leader of the revolutionists, defeated and captured Santa Anna, the Mexican general, who obtained his freedom by signing a treaty acknowledging the independence—a convention, however, which the Mexican Government repudiated. The United States recognized the new republic in March, 1837, thus giving Mexico a cause of grievance against this country.

In August, 1837, Texas applied for admission into the Union, and during the special session beginning in the following month William C. Preston (South Carolina) introduced in the Senate a resolution to this effect which was tabled by a vote of 24 to 14. From this time until the annexation was accomplished in December, 1845, the subject became a political issue, and a disturbing one in that it was connected with the agitation on the slavery question, since the South desired the annexation, and the North opposed it because it would greatly increase the extent of slave territory, Texas having permitted slavery within its borders, from which it had been excluded while the country was a part of Mexico.

An annexation treaty was concluded on April 12, 1844, by John C. Calhoun, Secretary of State, but it was rejected by the Senate, 16 ayes to 35 nays. The adoption of this treaty would have precipitated war with Mexico for the same reason that the subsequent annexation did so, namely, because it fixed the southwestern boundary of Texas at the Rio Grande del Norte instead of at the Rio Nueces, Mexico claiming the intervening region.

While the question was in suspense the Texan authorities, in order to promote an early and favorable

decision, distributed throughout the Southern States a vast number of land warrants which converted their recipients into ardent annexationists. The Southern politicians were appealed to on the ground that a number of new States could be carved out of the territory, all of which would naturally enter the Union with slavery, and so preserve between the sections the balance of



CLEANSING THE AUGEAN STABLE

[1844]

From the collection of the New York Historical Society

power which was in danger of inclining toward the North in the admission of free States.

During the Presidential campaign of 1844, while the Democrats minimized in the North the issue of Texan annexation, and strove to outbid the Whigs in a demand for the assertion of the Oregon claims, in the South annexation was the sole issue, and the now familiar threat of "Disunion" if the demands of the section were not granted was again raised.

The Northern statesmen were afraid of annexation, fearing that it would bring forward slavery as a paramount issue and cause a new political alignment in which other men than themselves would make themselves

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provided for a division of the acquired territory with four States, two in the South to enter the Union with slavery, and two in the North without it. It also provided for a conference with Mexico on the subject of the boundary, although, if this could not be amicably adjusted, Congress, and not the President, was empowered to annex Texas without Mexico's assent. By such a course, said Benton, "if the solution of the question brings war, we shall at least have the consolation to know that it comes constitutionally; that it is brought upon us by the authority that has the constitutional right to make war, and not by the unconstitutional act of the President and Senate, or President alone."

This bill had been introduced with no hope of its passage, but for the purpose of providing material in the pending presidential campaign.

Soon after the opening of the next session of Congress, Senator Benton reintroduced his annexation bill in the Senate, and Charles J. Ingersoll (Pennsylvania) introduced in the House a joint resolution of the Senate and House for the annexation of Texas, and its admission into the Union "as soon as may be consistent with the principles of the Federal Constitution."

This superseded the Benton bill in the Senate, and on February 26, 1845, was passed there by a vote of 27 to 25. On February 28 the House passed the joint resolution by a vote of 132 to 76. The President signed the act on March 1.

In December, 1845, Texas was formally admitted into the Union.

PEACE BY NON-RESISTANCE

In the debate in the Senate the discussion hinged largely on the question of the power of Congress to declare war or make peace, since the passage of the joint resolution would almost certainly lead to war with Mexico. George McDuffie (South Carolina) asserted that Congress had this power, and John J. Crittenden (Kentucky) denied that it had, saying that this was a part of the treaty-making power which vested in the

leaders. Accordingly, when the question was put directly to them, Martin Van Buren and Henry Clay, the leading aspirants of the Democratic and Whig parties respectively, for the nomination for the presidency, declared themselves against the annexation. This rendered certain the nomination of Clay, since a majority of the Whigs were opposed to the admission of more slave States, and it laid the basis for the loss of the nomination to Van Buren, since his Southern opponents, preliminary to the ballot in the Democratic convention held May 17, 1844, secured the passage of the two-thirds rule (which has been maintained ever since in Democratic conventions), and thus, although in the minority, by uniting on a Southern annexationist, James K. Polk of Tennessee, and standing resolutely for him, finally secured his nomination. For Vice-President the Whigs nominated Frederick T. Freylinghuysen (New Jersey), and the Democrats George M. Dallas (Pennsylvania). Both parties declared for asserting the Oregon claims. Polk and Dallas were elected over Clay and Frelinghuysen by a vote of 170 to 105. The Whig candidate would have been victorious had it not been for the increase in strength of the "Liberty Party," an Abolition party which had come into existence in the preceding presidential campaign, casting a negligible vote of 7,059 for James G. Birney of Kentucky and Francis J. Lemoyne of Pennsylvania (both of whom had declined the nomination). It now, however, cast a vote of 62,300 for Birney and Thomas Morris (Ohio), drawn almost wholly from the Whigs, and decided the electoral vote of New York (36) and Michigan (5) in favor of Polk and Dallas, who otherwise would have received 129 to 146 votes cast for Clay and Frelinghuysen. The annexation of Texas, which quickly followed the election, forced the restriction of slavery in front of its abolition as a practical question, and gave rise to a Free Soil party, with which the Abolitionists thereafter wisely coöperated, voting for its tickets in the next two presidential elections.

On June 10, 1844, Thomas H. Benton (Missouri) introduced in the Senate a bill to annex Texas, which

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Executive and the Senate jointly. An amusing colloquy occurred between the two on this point.

SENATOR CRITTENDEN asked: Where was the power of making peace given to Congress by the Constitution? Would the Senator from South Carolina tell him how Congress could make peace?

MR. McDUFFIE.—Yes, sir: by disbanding the army and navy. [Laughter.]

MR. CRITTENDEN.—That would not stop the war.

MR. McDUFFIE.—I do not presume the Executive and Senate would undertake to carry on the war after Congress disbanded the army and navy.

MR. CRITTENDEN.—No, sir; but it would be a very good time for the enemy to carry on the war. [Great laughter.]

A few days later Senator McDuffie, who, it would seem, had an overweening sense of personal dignity and a lamentable lack of the sense of humor, wrote to the editor of the (Washington) *Globe*, which had reported the colloquy, a long letter, intended for publication, in which he attempted to set himself right in the matter.

In the debate in the House the chief speakers in favor of annexation were Mr. Ingersoll, the mover of the resolutions, and Stephen A. Douglas (Illinois); and the chief opponents, Robert C. Winthrop (Massachusetts) and John Quincy Adams (Massachusetts).

THE ANNEXATION OF TEXAS

HOUSE OF REPRESENTATIVES, JANUARY 3-FEBRUARY 28, 1845

MR. INGERSOLL.—Like that of Maine, the Texas question is national; and national considerations should prevail in the latter as they did in the former, when the Union, south, and west, and central, sustained the Northeast in its plan of settlement. It is undeniable, however, that Southern interests, Southern frontiers, Southern institutions—I mean slavery and all—are to be primarily regarded in settling the restoration of Texas. It is a Texas question and a Southern question. If Southern Secretaries of State—one of whom originated and another is striving to consummate the affair—betray Southern partialities

¹ John Forsyth [Ga.], Secretary of State under Van Buren, inspired the Preston annexation bill of 1837, and John C. Calhoun [S. C.], the present Secretary, had made annexation his foremost policy.

which many of us may deem not quite national, that is no reason why a great national measure should not be effected on great national considerations. So, if our minister to Mexico discuss the matter with the Mexican authorities in a tone or temper which we may not approve, that is no sufficient reason why the affair itself should be frustrated. We must regard the merits and substance of the measure, and negotiation concerning it, without being prejudiced or prevented by the mere manner of dealing with them.

MR. WINTHROP said: One of the greatest complaints made by our fathers of the Revolution against the British Government was that it considered slavery a good and a blessing; that it had refused its assent to acts of the Colonies for its suppression; that it reprimanded the Governor of South Carolina for having given his assent to one of those acts. It seemed to him that arguments on this question more particularly belonged to those who maintained the affirmative of the proposition, and not to those who were opposed to it. It was for those who contemplated so momentous a change in our system—who were for running off for foreign lands and foreign alliances—it was for those who sought to jeopard the peace and union of the country, in order to find a more ample theater for their transcendental patriotism, to furnish arguments to sustain them. It was for them to make out their case. It was for them to show the policy of the act, and to point out the precise terms in which it was to be consummated. For us (said Mr. W.), who desire no change, who are content with the country as it is, and with the Constitution as it is—whose whole policy looked to the aggrandizement of the country by internal developments, and not by foreign acquisitions, we want no arguments. It is only necessary for us to content ourselves by sitting quietly in our seats and answer, as the old barons of England did, *nolumus leges Angliæ mutari*.¹ Sir (said Mr. W.) we have the Constitution. That Constitution is one of limited powers and of specific grants of power. That Constitution contains the clause that the powers therein enumerated shall not be construed to deny or disparage others retained by the people; and it also contained the clause that the powers not thereby granted are reserved to the States or to the people.

Now it was for those who contended for the annexation of a foreign territory to show that the power they attempt to exercise is contained in the grant. He was not at all astonished that the friends of this measure should have desired to throw

¹“We are unwilling that the laws of England be changed.”

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little consideration as was ordinarily bestowed on an act to grant a salary or create an office.

The whole of the scheme was unconstitutional in substance and in form; it was contrary to the law of nations, and was a violation of the good faith of our own country; and, in his judgment, it was eminently calculated to involve this country in an unjust and dishonorable war. He also objected to it on account of its relation with domestic slavery. He was one of those who utterly denied the authority of this Government to annex a foreign State to this Government by any process short of an appeal to the people in the form which the Constitution prescribed for its amendment.

MR. DOUGLAS.—The gentleman from Massachusetts had been pleased to tell them that it had been devised by a President of the United States not elected by the people. Mr. D. denied that the accidental President of the United States had the credit of originating the project of the annexation of Texas to the Union. The honorable gentleman from Massachusetts [Mr. Adams] could assert a claim to that honor, founded on the fact that when President of the United States, in 1825, he and his secretary [Mr. Clay] proposed to annex Texas to this Union, and offered millions of dollars in order to secure this valuable acquisition. It was possible, inasmuch as the gentleman from Massachusetts [Mr. Adams] did originate the measure, that his colleague [Mr. Winthrop] had referred to him [laughter] when he had said that the scheme was originated by a President not elected by the people. [Renewed laughter.]¹ Those who were opposed to the annexation of Texas seemed to have adopted the plan of raising up objections, of suggesting difficulties, and of keeping the friends of the measure employed in removing them, so that they would be prevented from going into the main question. They had found that the people were against them on that subject and that they had expressed their will more unequivocally in favor of the annexation of Texas than on any of the issues that were presented for their consideration. They therefore were reluctant to argue the question on its merits, and preferred a discussion on collateral issues.

He agreed with the gentleman from Massachusetts that, if we annexed Texas to the Union, it must be done consistently with the Constitution, and he was satisfied that Congress had the constitutional power to do it. In regard to the power to

off the load of argument from their own shoulders and impose it on their opponents. Having tried all the means in their power of reconciling the difficulties among themselves in regard to the accomplishment of this measure; having tried the *ultima ratio*¹ of a letter from the Hermitage in vain, the old Roman cement having lost its binding force, their last hopes were that the blows of their enemies might, more successfully than the love pats of their friends, knock their project into some shape that would render it acceptable to all. It seemed to be supposed by them that some anti-slavery feeling would manifest itself in the course of the debate, in such sudden and violent outbursts as to compel certain Southern members to give their votes for this measure, or their States to send other members here in their places next session who would be more complaisant. For himself, he was not disposed to minister to this feeling. Though he had no hesitation in saying that one of the grounds of his opposition to the annexation of Texas was that it would result in the extension of slavery, and, if his hour held out, he should treat it in connection with the question of slavery, yet he would do it in entire deference to the Constitution of the United States, which he was sworn to support. He should do it with the entire admission, which no Northern statesman has ever withheld, that so far as slavery exists in the States of the Union, this Government had no right whatever to interfere.

It was impossible for him to realize the fact that this subject was actually before the House for discussion. The introduction of a vast foreign nation into our boundaries—the naturalization of some thousands of Texans, as well as Mexicans—the introduction of 25,000 slaves into the Union in defiance of the Constitution, which prohibits it—the admission of a territory not only of a size sufficient to create two or three new States, but of a capacity to disturb the orbits of all the other stars and drive them into a new center toward other suns, and all this, too, by one simple act of legislation, was a thing so monstrous as almost to exceed belief. What was it? It was a measure devised by a Chief Magistrate² who was not the choice of the people, but who was the Chief Magistrate by accident, for his own ambitious views. It was rejected by the Senate, after mature deliberation and a thorough discussion; and it was now brought forward, after an hour's consultation in the Committee on Foreign Affairs, and was to be passed with as

¹“Last resort”; the reference to ex-President Jackson.

²President Tyler.

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annex foreign territory to the Union, he had only to call the attention of gentlemen to the fact that, in the articles of the old confederation, there was a proviso that Canada might be admitted into the Union as a matter of right, whenever she asked it, and that any other colony might be admitted with the consent of nine States. What other colonies were alluded to? The old thirteen States were included in the confederacy, and therefore none of them could have been alluded to. But gentlemen said that the colonies of Nova Scotia and New Brunswick were alluded to, but he would ask if Florida could not have been admitted under that article. It certainly was the intention of the framers of the confederacy to admit foreign states into the Union if they could get nine States to vote for it. Mr. Douglas went on to show that, after the confederacy, the power of admitting foreign states into the Union was not restricted by the Constitution, but enlarged by it. Propositions to restrict the admission of foreign states into the Union were made in the convention which framed the Constitution, and were rejected; after which the convention adopted the clause giving Congress the power of admitting new States into the Union. What else did they do? They struck out the proviso requiring the assent of nine States for the admission of new states, and inserted the proviso that Congress might do it. They also voted down the proviso requiring two-thirds, and provided that Congress might do it by the votes of a majority. Mr. D. then referred to the treaties of Louisiana and Florida to show the power of Congress to acquire foreign territory, and to the admission of Louisiana, Missouri, etc., into the Union, to show the power of Congress to admit territory so acquired into the Union as States. Mr. D. then went into an explanation of the powers of Congress to pass such laws as are necessary to carry the powers given by the Constitution into effect, drawing a distinction between the grounds of indispensable necessity, as held by the Democratic party, and the latitudinarian doctrine of convenience and expediency, as held by their opponents. It was on the former grounds, he said, that he contended for the constitutionality of the admission of Texas.

MR. ADAMS referred to the argument that Texas was comprehended in the territory ceded by the Louisiana treaty, and therefore the United States were bound by the terms of that treaty to admit them into the Union, contending that Texas was not included in that territory. He also referred to the assertion that he was the first who originated the idea of

¹Adams had been elected by Congress, although Jackson had received more electoral votes.

annexing Texas to the United States, for that in 1825, during his presidency, he made overtures to Mexico for the acquisition of that territory. He admitted this to be true. He did make overtures to Mexico for the acquisition of Texas; but there was a slight difference between his action on that subject and that now contemplated, which the gentleman from Illinois had overlooked. He had proposed to purchase Texas with the consent of its owner; but the gentleman and his friends proposed now to take it without the owner's consent. There was the same difference between his action and that now contemplated as there was between purchase and burglary. Further, when he proposed to purchase Texas of Mexico, slavery did not exist there, and he proposed to take it without slavery, which he was willing to do now, with the consent of Mexico.

In all the treaties for the acquisition of territory it was not the acquisition of territory which constituted the power not within the Constitution, it was the bearing on the people of the territory acquired. We could acquire territory; territory was inanimate—it was matter. Man was an immortal soul; man had rights peculiar to himself; and they could not, without his consent, transfer man from one country to another. There was no such power; it could not be conferred. That was his opinion, and he expressed it in the case of the Louisiana treaty. He maintained it then; he conversed particularly with Mr. Madison on the subject. He [Mr. M.] agreed with him on that point. He [Mr. A.] showed Mr. Madison a proposition of amendment of the Constitution of the United States, and a paper in order to take the vote of the people of Louisiana on that treaty. When they annexed foreign territory to this country they dissolved our Union; the Union was dissolved. We might form another; but the people of a nation, the immortal mind, could not form a political union with another people without their own consent. This was his doctrine then; it was his doctrine now; and nothing on earth but the precedent which was settled against him could be adduced against it. If a man had rights, what were they? Were they not to live under the government of his own choice, and to refuse or consent to the terms by which he was made a part of a community to which he did not belong? In the acquisition of territory was included the disposal of human rights. It was not a subject of treaty; or, if it was a subject of treaty, it was between the sovereign powers who were the first principals, viz., between the people; and that was what he had proposed in the case of Louisiana.

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On May 11 President Polk sent to Congress a war message in which he enumerated various wrongs committed by Mexico against the United States and its citizens during the period of differences between Mexico and Texas and, ignoring Mexico's reasonable claim to the territory invaded by General Taylor, asserted that "Mexico had passed the boundary of the United States and shed American blood on American soil." On the following day the Senate passed an act "providing for the prosecution of the existing war between the United States and Mexico," the preamble of which asserted, as the title assumed, that a state of war obtained between the two countries. On the question of whether this was in accordance with fact, and the proper attitude for the United States Government to assume, or the situation required that a formal declaration of war be made, a spirited debate took place in the Senate in which the supporters of the resolution were General Samuel Houston (Texas) and Lewis Cass (Michigan), and its opponents were John C. Calhoun (South Carolina), John M. Berrien (Georgia), James D. Wescott (Florida), and John J. Crittenden (Kentucky).

THE ACT OF WAR

SENATE, MAY 12, 1846

SENATOR CALHOUN said that he was prepared to vote the supplies on the spot and without an hour's delay; but it was just as impossible for him to vote for that preamble as it was for him to plunge a dagger into his own heart, and more so. He could not; he was not prepared to affirm that war existed between the United States and Mexico, and that it existed by the act of that government.

As to what might be said on such a course, and all that was called popularity, he did not care the snap of his fingers. If he could not stand and brave so small a danger, he should be but little worthy of what small amount of reputation he might have earned. He could not agree to make war on Mexico by making war on the Constitution; and the Senate would make war on the Constitution by declaring war to exist between the two governments when no war had been declared, and nothing

OUTBREAK OF HOSTILITIES

President Polk, in his first message to Congress (December, 1845), had announced that the "accession (of Texas) to our territory has been a bloodless achievement." But it was not to remain so long. On March 12, 1846, General Zachary Taylor, in command of reg-



THE MEXICAN RULERS
Migrating from Matamoras with their Treasures
From the collection of the New York Historical Society

ular troops stationed on the border of the territory between the Rio Nueces and Rio Grande del Norte, advanced under orders into this disputed region. On April 25 a reconnoitering squadron of American dragoons was surrounded and captured by a superior force of Mexican cavalry, one officer and eight men of the Americans being killed. On May 8 General Taylor, with his entire force (2,300), met the Mexican General, Arista, with 6,000 men and defeated him at Palo Alto; following after the retreating foe on the next day Taylor completely routed him at Resaca de la Palma, and drove him across the Rio Grande.

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had occurred but a slight military conflict between a portion of two armies. Yet he was asked to affirm, in the very face of the Constitution, that a local recontre, not authorized by the act of either government, constituted a state of war between the Government of Mexico and the Government of the United States—to say that, by a certain military movement of General Taylor and General Arista, every citizen of the United States was made the enemy of every man in Mexico. It was monstrous. It stripped Congress of the power of making war; and, what was more and worse, it gave that power to every officer, nay, to every subaltern commanding a corporal's guard. He therefore moved that the bill be referred to the Committee on Military Affairs.

The Senate, by a vote of 20 yeas to 26 nays, refused the reference.

GENERAL HOUSTON.—Was not the crossing of the Rio Grande by the Mexican forces of itself an act of war? Was not the entering our territory by an armed force an act of war? However the decision might hereafter be in regard to the precise extent of our territory, the Mexicans knew full well that the river had been assumed as the boundary. Up to the time of annexation it had been so considered, and, more than that, the Mexicans had never once established a military encampment on the east side of the river; it had never been held, even by themselves, to be within the limits of Mexico, otherwise than upon the ridiculous ground of claiming the whole of Texas to be theirs.

They had marched across the river in military array—they had entered upon American soil with hostile design. Was this not war? And now were Senators prepared to temporize and to predicate the action of this Government upon that of the Mexican Government, as if the latter was a systematic, regular, and orderly government? He, for one, was not prepared to do so. How many revolutions had that government undergone within the last three years? Not less than three, with another now in embryo. Perhaps the next arrival might bring us news of another change, and that the American army on the Rio del Norte had been destroyed while awaiting the action of the Mexican Government, in the supposition that it was a regularly constituted government, instead of being a government of brigands and despots, ruling with a rod of iron, and keeping faith with no other nation, and heaping indignities upon the Ameri-

can flag. A state of war now existed as perfect as it could be after a formal declaration or recognition of a state of war by the Congress of the United States. Their action had been continually indicative of a state of war, and the question now was, whether the Government of the United States would respond to that action and visit the aggressors with punishment.



CARICATURE OF LEWIS CASS

[1848]

From the collection of the New York Historical Society

SENATOR CASS.—It is true, sir, that there may be accidental or unauthorized recontres which do not therefore constitute war. But the nature and circumstances of an aggression sufficiently indicate its true character and consequences. A Mexican army invades our territory. How far may the invaders march before we are satisfied that we are at war with Mexico? Why, sir, such a state of things must be judged by moral evidence, by the circumstances attending it. It might be enough to say that the invasion itself throws the responsibility upon the Mexican Government, and is a sufficient justification for us in holding that government accountable. The negative proof is not upon us. The moral presumption is sufficient for our action.

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exist by any act of the constituted authorities, in whose hands alone is the power to create war.

SENATOR WESTCOTT.—Without a formal declaration of war and without the express authority of Congress, the President cannot issue commissions to privateers—issue letters of marque and reprisal—cannot authorize the blockade of the Mexican ports—cannot authorize the capture of Mexican vessels on the high seas as prizes of war. Without such declaration, Mexicans taken in arms, after defeat in attacking our citizens or soldiers, cannot be held by the Executive authority as prisoners of war—treason in aiding her troops may even go unpunished; and, above all, without it the observance of the duties of other nations toward us, the duty of neutrality, so likely to be violated, could not be properly enforced. Without such declaration, Mexico may be supplied with arms, ammunition, and munitions of war by other nations; and, if captured, they would not be liable to forfeiture as “contraband of war.” The declaration of war will in every way strengthen the Executive arm in this contest—at home, abroad, on the field of contest, and in these halls. It will increase the efficiency of the supplies of men and money we propose to give threefold. It will convince the world we are in earnest in this matter.

SENATOR CRITTENDEN.—He saw no reason for the advance of the troops to the Rio Grande—for the hazarding of those consequences which every sensible man must have foreseen. It was not for a moment to be imagined that the angry armies of two angry and quarreling nations should, day after day, face each other with cannons pointed at each other, and only a fordable river between them, and conflict not result. It was conceded that this was disputed territory. What right had the United States to take possession of it? Had not the other disputing claimant an equal right? But he would not prosecute that view of the subject at present. He was willing to consider the exigency as urgent as they pleased, and to make adequate preparation. As it was the wish of some Senators to rest with that in the meantime, he should be entirely content with that course, but he did not know that he would be willing to limit the Government to repelling invasion. Perhaps he would be satisfied with an expression of what he meant by repelling invasion. He meant by that, pursuing, beating down, till the borders were freed from danger of a repetition of the invasion.

A SENATOR.—“That would be war.”

MR. CRITTENDEN.—No; there was a shade of difference—a very perceptible one. He would be willing to give the means

A hostile army is in our country; our frontier has been penetrated; a foreign banner floats over the soil of the Republic; our citizens have been killed while defending their country; a great blow has been aimed at us; and, while we are talking and asking for evidence, it may have been struck and our army been annihilated. And what then? The triumphant Mexicans will march onward till they reach the frontiers of Louisiana, or till we receive such a formal certificate of the intentions of the Mexican Government as will unite us in a determination to recognize the existence of the war, and to take the necessary measures to prosecute it with vigor.

I have no doubt the boundary of Texas goes to the Rio del Norte. But I do not place the justification of our Government upon any question of title. Granting that the Mexicans have a claim to that country as well as we, still the nature of the aggression is not changed. We were in the possession of the country—a possession obtained without conflict. And we could not be divested of this possession but by our own consent or by an act of war. The ultimate claim to the country was a question for diplomatic adjustment. Till that took place the possessive right was in us; and any attempt to dislodge us was a clear act of war.

We have but one safe course before us. Let us put forth our whole strength. Let us organize a force that will leave no doubt as to the result. Let us enter the Mexican territory and conquer a peace at the point of the bayonet. Let us move on till we meet reasonable proposals from the Mexican Government; and if these are not met this side of the capital, let us take possession of the city of Montezuma and dictate our own conditions.

SENATOR BERRIEN.—The proposition of the Senator is that war exists. How does he prove it? Why, by the presence of a Mexican army around the United States army. Does he not thus decide the question of boundary? No. I beg to ask how that possession was acquired, and by whom? It was by the march of the United States army into the territory. If conceding that it was a disputed territory, the right of Mexico was equal with that of the United States to enter the territory. If our possession was derived from marching our army there, cannot Mexico exercise the same right? Does priority in an act of hostility vest a national right? The argument of the Senator is that the march of the Mexican army was an act of hostility. If so, I have demonstrated that the march of the United States army was an equal act of hostility. War does not, then,

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to the President for the purpose of repelling invasion and otherwise prosecuting hostilities till the peace of the country be secured from the danger of further invasion. He would move to strike out the preamble, of which he saw no necessity—there was none in the declaration of war in 1812.

Senator Crittenden's motion was negatived, 20 yeas, 25 nays. The question “Shall the bill pass?” was then put and resulted 40 yeas to 2 nays, Senators Berrien and Calhoun not voting, and Senator Crittenden voting “aye, except the preamble.”

On December 10, 1845, Stephen A. Douglas (Illinois), chairman of the Committee on Territories, introduced in the House of Representatives joint resolutions of the House and Senate to admit Texas into the Union. Remonstrances were presented from various Northern State legislatures and other bodies against admission of the State with slavery. After some debate the resolutions came to a vote on December 16 and were adopted by 141 yeas to 56 nays. While they omitted all direct allusions to slavery, permission to introduce it into the State was implicit in the statement of the resolutions that Texas should be “admitted into the Union on an equal footing with the original States in all respects whatever.”

Julius Rockwell (Massachusetts) was the chief speaker in opposition to the resolutions.

This Texas slavery question was a new question now for the first time presented to the consciences of men. As one called to represent in part the people of his own ancient Commonwealth he must enter his solemn protest against the extension of slavery as an evil directed against the truest interests of his country; as militating directly against its prosperity and freedom, and darkening that national character which she ought to hold up to all nations and ages of the world; as being in opposition to the Constitution which had preserved us hitherto in concord; as against the principles of the fathers of the Republic, who lived themselves in slaveholding States, who would have saved us, if they could, from so great an evil, and who openly confessed that they trembled for their country when they remembered that God is just.

The joint resolution for admitting Texas into the

Union with slavery was presented in the Senate on December 22, 1845, and was thoroughly debated, John M. Berrien (Georgia) speaking in the affirmative, and Daniel Webster (Massachusetts) in the negative. It passed by a vote of 31 to 14.

ADMISSION OF TEXAS INTO THE UNION

SENATE, DECEMBER 22, 1845

SENATOR WEBSTER.—While I hold, with as much integrity, I trust, and faithfulness as any citizen of this country to all the original arrangements and compromises in which the Constitution under which we now live was adopted, I never could and never can persuade myself to be in favor of the admission of other States into the Union as slave States, with the inequalities which were allowed and accorded to the slaveholding States then in existence by the Constitution. I do not think that the free States ever expected, or could expect, that they would be called on to admit further slave States having the advantages, the unequal advantages, arising to them from the mode of apportioning representation under the existing Constitution.

On looking at the proposition I find that it imposes restraints upon the legislature of the State as to the manner in which it shall proceed (in case there is a desire to proceed at all) in order to abolish slavery. I have perused that part of the constitution of Texas, and, if I understand it, the legislature is restrained from abolishing slavery at any time, except on two conditions: one, the consent of every master; and, the other, the payment of compensation. Now, I think that a constitution thus formed does tie up the hands of the legislature effectually against any movement under any state of circumstances, with a view to abolish slavery; because if anything is to be done it must be done within the State by general law, and such a thing as the consent of every master cannot be obtained.

Mr. President, I was not in the councils of the United States at the last session of Congress, and of course I had no opportunity to take part in the debates upon this question; nor have I before been called upon to discharge a public trust in regard to it. I certainly did, as a private citizen, entertain a strong feeling that if Texas were to be brought into the Union at all she was to be brought in by diplomatic arrangement, sanctioned by treaty; but it has been decided otherwise by both Houses of

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those who denounced it as unjust, though with the exception of Joshua R. Giddings (Ohio) they were willing to support the army now that hostilities had begun, were Giddings, Columbus Delano (Ohio), John W. Houston (Delaware), John Quincy Adams (Massachusetts) and Robert Toombs (Georgia).

"MY COUNTRY, RIGHT OR WRONG"

DEBATE ON THE MEXICAN WAR, HOUSE OF REPRESENTATIVES, MAY 13-19, 1846

MR. GIDDINGS.—The President in his message, as a pretext for sending our army to invade and conquer the country upon the Rio Grande, says:

"Texas, by its act of December 19, 1836, had declared the Rio del Norte to be the boundary of that republic."

This mere declaration on paper by the legislature of Texas could not change or alter the facts. They were entered upon the page of history, as well as upon the records of eternal truth; and no flagrant falsehood by that body, indorsed by a dignitary of this Government, can change or alter them. The truth is that Texas had agreed upon the Nueces as her boundary.

Were Mexico to declare, by a legislative act, that her eastern boundary is the "Hudson River," and, on paper, attach the whole of our States south and west of that stream to her congressional districts, and then, on paper, divide our seaboard into collection districts, without being able to enforce her laws in any way whatever, her president may, at the next meeting of her congress, adopt this portion of President Polk's message, and urge, with equal propriety, that Pennsylvania and Ohio are Mexican territory. But if Mexico possessed the power and disposition to enforce such views, we should regard the carrying them out to be an outrage unparalleled among civilized and Christian nations; and were a Mexican army to invade our country, in order to compel us to unite with their government, we should meet them sword in hand and would yield our country only with our lives.

I apprehend that much blood and much treasure will be expended before the people of New Mexico will be compelled to unite with slave-holding Texas. Those Mexicans love freedom. They have abolished slavery, for which they entertain an uncon-

Congress: and, whatever my own opinions may be, I know that many who coincided with me feel themselves, nevertheless, bound by the decision of all branches of the Government.

I discharge my own duty and fulfil the expectations of those who placed me here by giving this expression of their most decided, unequivocal, and entirely unanimous dissent and protest; and stating, as I have now stated, the reasons which have impelled me to withhold my vote.

I agree with the unanimous opinion of the legislature of Massachusetts; I agree with the great mass of her people; I reaffirm what I have said and written in the last eight years, at various times, against this annexation. I here record my own dissent and opposition; and I here express and place on record, also, the dissent and protest of the State of Massachusetts.

SENATOR BERRIEN.—The pledge of this Government has been given, and it must be redeemed. The only question, therefore, is whether the people of Texas have complied with the conditions specified in the joint resolution? Now, sir, I have given a somewhat attentive consideration to the constitution which they have adopted, and am of opinion that these conditions have been complied with. I see nothing in the provisions of that constitution on the subject of slavery which ought to prohibit the consummation of the measure as promised in the resolutions of the last Congress. Much to which the Senator from Massachusetts refers, the inhibition to the legislature, except on certain conditions, to pass laws of emancipation, it seems to me is somewhat beyond the province of Congress to entertain. It is perfectly open, as I have before said, to any Senator to question the propriety of the admission of Texas on the ground of its tendency to disturb the political balances between the States contemplated by the Constitution; but the question of emancipation, when, how, and under what circumstances to be allowed, it would appear to me should be left with her own Legislature, as a subject for domestic regulation, belonging exclusively to the State, and with which the Congress of the United States has no authority, either directly or indirectly, to interfere.

During the progress of the war a spirited debate took place in the House on the occasion of making appropriations for the support of the army. The speakers who defended the war as just were Stephen A. Douglas (Illinois) and J. H. Lumpkin (Georgia), and

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quersable detestation. If I had time, I should like to inquire of gentlemen from New England and from our free States what benefit our nation or the world are to receive from a conquest of that country and the extension of slavery over it?

But the President says this Mexican country "is now included in one of our congressional districts." These thirty thousand people who, so soon as the bill which passed this House yesterday shall receive the sanction of the Senate, and shall be approved by the President, will be in a state of war with this nation, are to be represented on this floor because Texas has on paper attached them to one of her congressional districts. If this act of the Texan legislature has any binding force whatever, it will render every Mexican who opposes our army a traitor against this Government, and will subject him to the punishment of death.

Yes, the men who burned their dwellings at Point Isabel and with their wives and little ones fled before our invading army are to be represented in this body. Should their representative, according to the democratic doctrine, carry out the views of his constituents, the President himself may, in an unguarded moment, find a "lasso" about his own neck, and the members of our body be assassinated agreeably to the hearty wishes of the people of that district.

I regard the message as having been put forth to divert public attention from the outrage committed by the President upon our own Constitution, and the exercise of usurped powers, of which he has been guilty in ordering our army to invade a country with which we are at peace, and of provoking and bringing on this war. I am led to this inevitable conclusion from the fact that he dare not rest his justification upon truth. He reminds us of the grievous wrongs perpetrated (as he says) by Mexico upon our people in former years, and alludes to the delay of that government in the payment of debts due our people, and mourns over the loss of our commerce with Mexico; all for the purpose of justifying himself in sending the army to the Rio Grande, and commencing the work of human butchery!

If the country be *ours*, why does he seek to justify the taking possession of it by reference to the fact that Mexico is indebted to some of our people? If it be not *ours*, and he has taken possession of it in order to compel Mexico to pay those debts, why not say so? The fact that Mexico has not paid the debts due to our citizens can have no legitimate connection with taking possession of our own soil. But the writer of the message was obviously conscious that this invasion of the Mexican ter-

ritory could not be justified; and he endeavored to extenuate the act by assuring us that "the movement of the troops to the Del Norte was made under positive instructions to abstain from all aggressive acts toward Mexico or Mexican citizens unless she should declare war."

What aggressive acts toward a foreign power could our army commit while on our own territory? While the army was within the United States they could not commit violence upon Mexico. The order was also to abstain from all aggressive acts toward "Mexican citizens." It seems that the President expected General Taylor to find Mexican citizens located within the United States. And this sentence evidently alludes to the order of the Secretary of War, in which General Taylor was directed to take possession of the whole country "except that which was in the actual occupation of Mexican troops or Mexican settlements." Here is a distinct admission that this country, claimed by the President as a portion of the United States, was in the actual possession of Mexican troops and Mexican settlements. The idea that our army could *peaceably* surround those military posts occupied by Mexican troops could be entertained by no reflecting mind. The President must have known, and we all know, that those military posts were established for the sole purpose of protecting the country, and the sending of our army there must have been done with the moral certainty that war would ensue. The truth is most obvious to the casual reader. The President obviously intended to involve us in war with Mexico. No sophistry can disguise that fact. That truth will stand on the page of history in all coming time, to the disgrace of this nation and of the age in which we live.

Sir, I regard this war as but one scene in the drama now being enacted by this Administration. Our Government is undergoing a revolution no less marked than was that of France in 1792. As yet, it has not been characterized by that amount of bloodshed and cruelty which distinguished the change of government in France. When the Executive and Congress openly and avowedly took upon themselves the responsibility of extending and perpetuating slavery by the annexation of Texas, and by the total overthrow and subversion of the Constitution, and that, too, by the aid of Northern votes, my confidence in the stability of our institutions was shaken, destroyed. I had hoped that the free States might be aroused in time to save our Union from final overthrow; but that hope has been torn from me. The great charter of our political liberties has

American, I would never sheathe my sword while an enemy remained upon my native soil.

Yesterday I was asked to declare to the world that "Mexico had made war upon us." That assertion I knew would be untrue, as I have already shown. I felt most deeply the impotence of this body, in thus attempting to change or alter great and important facts already entered upon the records of eternal truth, where they will remain while a God of truth shall exist. Sir, when we were about to assume upon ourselves the awful responsibility of involving our country in a serious and bloody war, with all its consequences; when about to appeal to a God of justice and of truth for his aid in maintaining our national rights, I dared not do so with an impious falsehood upon my lips.

But I hear it said that "we must go for our country, right or wrong." If this maxim be understood to require us to go with our country, or with the majority of our country, to commit a wrong upon other nations or people, either in time of peace or in time of war, I deny its morality; but if it be understood as imposing upon us, at all times and under all circumstances, the obligation of using all our influence and efforts to set our country in the right when we find her wrong, or to keep her right when we find her in the path of duty, then, sir, I yield my assent to its correctness. We are not to abandon our country because our Government is badly administered; but, in such case, we should use our efforts to correct the evil and place the Government in just and able hands.

Again it is said, "we must stand by our country." The man who would do otherwise would be unworthy of any country. He only is a true friend of his country who maintains her virtue and her justice; and he is not a true friend to his country who will knowingly support her in doing wrong. Tomorrow this nation will probably be in a state of war with Mexico. It will be an aggressive, unholy, and unjust war. It will then be my duty to use my efforts to restore peace at the earliest practicable moment that it can be done on just and honorable principles. But while the war continues efforts will probably be made to conquer Mexico, and we shall be called on to appropriate money and raise troops to go there and slay her people and rob her of territory. But the crime of murdering her inhabitants and of taking possession of her territory will be as great to-morrow, after war shall have been declared, as it would have been yesterday.

Justice is as unchangeable as its Author. The line of moral

been tamely surrendered by our free States to purchase perpetual slavery for the South. Our Union continues, but our Constitution is gone. The rights of the several States and of the people now depend upon the arbitrary will of an irresponsible majority, who are themselves controlled by a weak but ambitious Executive.

Sir, no man regards this war as *just*. We know, the country knows, and the civilized world are conscious, that it has resulted from a desire to extend and sustain an institution on which the curse of the Almighty most visibly rests. Mexico has long since abolished slavery. She has purified herself from its crimes and its guilt. That institution is now circumscribed on the southwest by Mexico, where the slaves of Texas find an asylum. A gentleman from Matamoras lately assured me that there were in and about that city at least five hundred fugitives from Texan bondage. Experience has shown that they cannot be held in servitude in the vicinity of a free government. It has therefore become necessary to extend our dominions into Mexico in order to render slavery secure in Texas. Without this, the great objects of annexation will not be attained. We sought to extend and perpetuate slavery in a peaceful manner by the annexation of Texas. Now we are about to effect that object by war and conquest. Can we invoke the blessing of Deity to rest on such motives? Has the Almighty any attribute that will permit Him to take sides with us in this contest?

I know it is said that a large army and heavy appropriations will make a short war. God grant that the prediction may prove true. I apprehend that Mexico has maturely considered the subject, and enters upon the war with a solemn conviction that her existence as a nation depends upon her resistance to our aggressions. The devotion of her people at Point Isabel conclusively shows it. Why, sir, look at General Taylor's report, and you will see a devotion manifested by the officers and peasantry of Mexico that speaks in thunder tones to those who regard the conquest of that people as a trifling matter. See the females and children, at the approach of our troops, leave their homes, consecrated by all the ties of domestic life, and, while they are fleeing to the Mexican army for protection, see their husbands and fathers apply the torch to their own dwellings, and then fly to arms in defence of their institutions. I confess I was struck with deep solemnity when that communication was read at your table; and, in imitation of William Pitt, I was ready to swear that, if I were a Mexican, as I am an

rectitude will never bend to our selfish passions. In the murder of Mexicans upon their own soil, or in robbing them of their country, I can take no part, either now or hereafter. The guilt of these crimes must rest on others; I will not participate in them; but if Mexicans or any other people should dare invade our country, I would meet them with the sword in one hand and a torch in the other; and, if compelled to retreat, like the Mexicans at Point Isabel, I would lay our dwellings in ashes, rather than see them occupied by a conquering army.

We may always justify ourselves for defending our country, but never for waging a war upon an unoffending people for the purpose of conquest. There is an immutable, an eternal principle of justice pervading the moral universe. No nation, or people, or individual ever did or ever will violate that law with impunity.

Suppose we send an army into Mexico and kill hundreds and thousands of her people, burn her cities, and lay waste her country; do you think we shall escape the dread penalty of retributive justice? I tell you, we shall not. As sure as our destiny is swayed by a righteous God, our troops will fall by the sword and by pestilence; our widows will mourn; and our orphans, rendered such by this unholy war, will be thrown upon our public charity.¹

But it is said that war is always popular. I deny this assertion. I believe that nine-tenths of our people regarded the Florida war with contempt.² Their disgust arose from the fact that it was unjust and cruel, and arose from an effort to sustain slavery. This war is equally unjust, and arises from the same cause, and must be viewed in the same light by the people. It is impossible, in the nature of things, for it to be otherwise. Our people feel no hostility to those of Mexico. The Mexicans have remained at home, "under their own vines and fig-trees"; they have not molested us or encroached upon our rights. It is true that their population is less intelligent than that of our free States; and it is equally true that they are more rapidly improving their condition than are those of our slave States. They are surely in advance of them in the diffusion of universal liberty among their people. The means of intelligence and enjoyment are open to all.

Indeed, taking the whole population of our slave States and of Mexico into consideration, I think we shall find the Mexicans

¹ It is estimated that the number of victims who fell in this war, by pestilence and the sword, were eighty thousand. Of these, thirty thousand were Americans, and fifty thousand Mexicans.

² The Seminole War. See Volume VIII, chapter VI.

the best informed, most intelligent, and most virtuous. Our people of the North have sympathized with them in their efforts to render their free government permanent and respectable. Can the lovers of liberty now desire to see a sister republic wantonly subverted while just coming into existence and struggling for the permanent establishment of civil freedom? It cannot be. You may declare war; display your banners, your glittering arms, your blazing uniforms; you may raise the battle-cry and sound your trumpets; but you cannot induce the intelligent men of the North to march to Mexico for the purpose of bathing their hands in Mexican blood for the extension of slavery. You may for the moment excite the young, the giddy and thoughtless; but their "sober second thoughts" will lead them to inquire for the *cause* of the war in which they are asked to engage. The true answer to that inquiry must overwhelm its authors with disgrace.

There is, however, one cheering circumstance in the distant future. All history informs us that for ages no nation or people, once having adopted the system of universal freedom, was ever afterward brought to the maintenance of slavery. There are now probably eight or nine millions of people in Mexico who hate slavery as sincerely as do those of our free States. You may murder or drive from their country that whole population, but you can never force slavery upon them. This war is waged against an unoffending people, without just or adequate cause, for the purposes of conquest; with the design to extend slavery; in violation of the Constitution, against the dictates of justice, of humanity, the sentiments of the age in which we live, and the precepts of the religion we profess. I will lend it no aid, no support whatever. I will not bathe my hands in the blood of the people of Mexico, nor will I participate in the guilt of those murders which have been and which will hereafter be committed by our army there. For these reasons I shall vote against the bill under consideration and all others calculated to support this war.

MR. DELANO said: We were in the midst of a war which we had engaged in without authority of law and without being in the right, yet, now that war had begun, on the principle of "my country, may she be always right, but, right or wrong, my country," he was ready to adopt purely defensive measures. Where this war would end he could not predict. But we had not yet settled the Oregon question. He never had any confidence in the sincerity of the President's declarations of a purpose to maintain our rights in Oregon. He believed that

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enemies. America wants no friends, acknowledges the fidelity of no citizen who, after war is declared, condemns the justice of her cause or sympathizes with the enemy. All such are traitors in their hearts; and would to God that they would commit such overt act for which they could be dealt with according to their deserts.

I will not proceed to examine the arguments by which the gentleman from Ohio [Mr. Delano] and those with whom he acts pretend to justify their foreign sympathies. They assume that the Rio del Norte was not the boundary line between Texas and Mexico; that the Republic of Texas never extended beyond the Nueces—and consequently our Government was under no obligation, and had no right, to protect the lives and property of American citizens beyond the last-mentioned river. In support of this assumption, the gentleman has referred to the dispute which he says arose between the provinces of Coahuila and Texas, and the decisions of Almonte and some other Mexican general thereon prior to the Texan revolution, and while those provinces constituted a state of the Mexican Confederacy. I will direct the gentleman's attention to the various maps, records, histories, and authorities—Spanish, English, and French—by which it is shown that the Rio del Norte was the boundary line between the French province of Louisiana and the Spanish provinces of Mexico. The gentleman can also satisfy himself on that point if he will take the pains to read a dispatch (I might with propriety say a book, from its very great length) written by the American Secretary of State, John Q. Adams, to the Spanish minister [Don Onís] in 1819. He will there find the authorities all collected and reviewed with a clearness and ability which defy refutation and demonstrate the validity of the American title under the treaty of 1803 to the country in dispute, together with the expression of his opinion, by the venerable gentleman from Massachusetts [Mr. Adams] that our title to the Del Norte was as clear as to the island of New Orleans. This was the opinion of Mr. Adams in 1819. It was the opinion of Messrs. Monroe and Pinckney in 1805. It was the opinion of Jefferson and Madison—of all our Presidents, and all Administrations, from the day of the purchase of Louisiana in 1803 to the fatal treaty of relinquishment to Spain in 1819. I give the gentleman the opinion of these men in opposition to the opinion of Almonte and his brother Mexican general, and then leave the question of boundary prior to the Texan revolution. Will he tell us and his constituents that those distinguished statesmen, including his friend from Mas-

he would give away all Oregon to prosecute this war for a territory not belonging to us.

We had declared war without notice. It came upon the country like a clap of thunder in a clear sky. The pirates were ready to be let loose upon our unprotected commerce. We had everything to lose—nothing to gain. Send your armies, in the prosecution of this illegal, unrighteous, and damnable war, to the mountains of Mexico, and disease and the foe will sweep them off in thousands. The passes and mountains of Mexico would become a charnel-house for our people, and their bones would be scattered all over its vast territory before this peace would be conquered.

MR. DOUGLAS said: What reliance shall we place on the sincerity of gentlemen's professions that they are for the country, right or wrong, when they exert all their power and influence to put their country in the wrong in the eyes of Christendom, and invoke the wrath of Heaven upon us for our manifold crimes and aggressions? With professions of patriotism on their lips, do they not show that their hearts are against their own country? They appeal to the consciences and religious feelings of our countrymen to unite in execration of our Government, army, citizen soldiers, and country, for prosecuting what they denounce as an unholy, unrighteous, and damnable cause. They predict that the judgment of God will rest upon us; that sickness, and carnage, and death will be our portion; that defeat and disgrace will attend our arms. Is there not treason in the heart that can feel and poison in the breath that can utter such sentiments against their own country, when forced to take up arms in self-defence, to repel invasion by a brutal and perfidious enemy? They for their country, right or wrong, who tell our people, if they rally under their country's standard, their bones will bleach on the plains of Mexico, and the enemy will look down from the mountain top to behold the destruction of our armies by disease and malarias, and all those mysterious elements of death which Divine Providence employs to punish a wicked people for prosecuting an unholy and unjust war! Sir, I tell these gentlemen that it requires more charity than falls to the lot of frail man to believe that these sentiments are consistent with the sincerity of their professions—with patriotism, honor, and duty to their country. Patriotism emanates from the heart, fills the soul, infuses itself into the whole man, and speaks and acts the same language. A friend of his country in war will feel, speak, and act for his country; will revere his country's cause and hate his country's

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sachusetts [Mr. Adams], as well as Mr. Polk and the American Congress, were engaged in an unholy, an unrighteous, and damnable cause in claiming title to the Rio del Norte?

But, sir, I have already said that I do not deem it necessary to rely upon these old authorities for the full and complete justification of our Government in defending possession of the country on the left bank of the Rio del Norte. There is better and higher evidence than this. The Republic of Texas held the country by a more glorious title than can be traced through the old maps and musty records of Spanish and French courts. She held the country by the same title that our forefathers of the Revolution acquired our territory and achieved the independence of this Republic. She held it by virtue of her Declaration of Independence, setting forth the inalienable rights of man, by men who had hearts to feel and minds to comprehend the blessings of freedom; by principles successfully maintained by the irresistible power of her arms, and consecrated by the precious blood of her glorious heroes. These are her muniments of title to the empire which she has voluntarily annexed to our Union, and which we have pledged our faith to protect and defend against invasion or dismemberment. We have received the Republic of Texas, with her entire territory, into this Union, as an independent and sovereign State, and have no right to alienate or surrender any portion of it.

Immediately after the battle of San Jacinto, Santa Anna made a proposition to the commander of the Texan army to make a treaty of peace, by which Mexico would recognize the independence of Texas, with the Rio del Norte as the boundary. In May, 1836, such a treaty was made between the government of Texas and Santa Anna, in which the independence of the republic of Texas was acknowledged, and the Rio del Norte recognized as the boundary. In pursuance of this treaty, the remnant of the Mexican army were ordered by Santa Anna to retire beyond the confines of the Republic of Texas, and take their position on the west side of the Rio del Norte, which they did in conformity with the treaty of peace.

MR. J. W. HOUSTON.—I wish to ask of the gentleman from Illinois was that treaty ever ratified by the Government of Mexico?

MR. DOUGLAS.—I will answer the gentleman's question with great pleasure. That treaty was never ratified on the part of Mexico by anybody except Santa Anna, for the very good reason that, in the year previous, Santa Anna had usurped the Government of Mexico, had abolished the constitution and the

regularly established government, and taken all the powers of government into his own hands. This treaty was entered into by the Government of Mexico *de facto*, Santa Anna combining in his own person at the time all the powers of the government, and as such was binding on the Mexican nation.

MR. ADAMS.—I desire to inquire of the gentleman from Illinois if Santa Anna was not a prisoner of war at the time, and in duress, when he executed that treaty?

MR. DOUGLAS, in reply.—Santa Anna was a prisoner of war at the time, and so was the entire Government of Mexico, he being the government *de facto*, and clothed with all the powers of government, civil and military. The government was a prisoner at the time, and in duress. Will the gentleman from Massachusetts contend that a treaty made with us under those circumstances would not be binding, because, forsooth, the government was a prisoner at the time? How is a conquered nation ever to make peace if the gentleman's doctrine is to prevail? They refuse to make peace before they are conquered, because they hope for victory. They are incompetent to do so afterward, because they are in duress! I fear that, if this doctrine shall prevail, these gentlemen will soon find their Mexican friends in a most pitiable condition. Perhaps, if that government should be reduced to captivity, these gentlemen would require that our armies should retire within our own territory, and set the government at liberty, before negotiations for peace could be opened. This may be their view of the subject, but I doubt whether it is the view which the American Government or the American people will deem it their duty to act upon. Our crude notions of things may teach us that the city of Mexico would be the most suitable place to form a treaty of peace.

MR. ADAMS.—Has not that treaty with Santa Anna been discarded by the Mexican Government since?

MR. DOUGLAS.—I presume it has; for I am not aware of any treaty or compact which that government ever entered into that has not either been violated or repudiated by them afterward. It is sufficient for my purpose that the treaty was entered into and sanctioned by the government *de facto* for the time being. The acts of a government *de facto* are binding on the nation as against foreign nations, without reference to the mode in which that government was established, whether by revolution, usurpation, or rightful and constitutional means.

MR. LUMPKIN.—The people of this country were, to some extent, divided as to the policy of admitting Texas as a State

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with Mexico as unauthorized, unjust, and damnable? Will you promote the success of our arms by destroying, if such a thing were possible, the influence of the President? Are you encouraging enlistments for the service of the country by proclaiming to your countrymen that your Government is the aggressor?—that the President has, in violation of the Constitution, without authority of Congress, made an aggressive, unjust, and damnable war against an unoffending sister republic? I beg such gentlemen to pause and reflect before they give utterance to such sentiments in this place at a time like this. Retrace your steps, and withdraw, for a time, these charges, perhaps inconsiderately and too hastily made, and come forward with the same ability you have displayed against the Executive in support of all the measures necessary to the efficient and successful prosecution of the war against Mexico, and, my word for it, the result will be such as to rejoice the patriots of all parties. If these charges are to be investigated, and if gentlemen will insist that they are made in good faith, and that they are prepared to sustain them before the greatest of all human tribunals—the enlightened public opinion of the civilized world—I call upon them, in the name of my countrymen of all parties, to postpone these bickerings and discussions until the rainbow of peace shall again span our country's horizon.

MR. TOOMBS remarked that it was a little remarkable, when the country was represented by the friends of the Administration to be suffering from foreign invasion, and that the blood of American citizens, shed, as was contended, on American soil, was calling aloud for immediate vengeance, instead of responding to those appeals to patriotism which had been made, even this occasion must be consecrated to party, and a preamble placed before the bill to cover the usurpations of the Executive—a preamble declaring what no man could rise in his place and say he knew, that war had been made by Mexico. They could have voted supplies to defend Texas as well without this preamble; but it was too precious an opportunity to be lost to appeal to the people to sanction the wrongs and the usurpations of the Executive. And all those who were unwilling to subscribe to this declaration, the truth of which they could not know, and which he believed to be false, were to be branded as enemies to their country—as destitute of patriotism. If this were patriotism, he hoped there were but few patriots in the country.

The true question was not whether we should vote supplies for our army or protect our citizens in Texas. These questions were extraneous to that which was the subject of discussion,

into this Union. This, I admit, was an honest difference of opinion; and the measure was one about which the most patriotic might with propriety at that time disagree. But, sir, the question now assumes another aspect. Texas has been admitted into the Union, the people of both countries have been consulted, and they have solemnly determined to unite their destiny under the broad and ample folds of the American banner. The deed has been consummated and ratified by the action of both governments; and Texas has as much claim upon our protection as any other State in this Confederacy. The boundary of the United States is now extended to the western limit of Texas; her soil is our soil, her people our people; and her resources contribute to our greatness in peace and to our defence in war. We have done all this, and it is now too late to urge objections to the policy of this measure; and at a time like this, when our country has been invaded by hostile troops—when our soldiers have been captured, wounded, and killed in unequal and desperate conflict, and our army is exposed to peril from the overpowering numbers of the enemy, it is treasonable to withhold the supplies necessary for their relief; and no good but much evil must result from a prolonged discussion upon the policy of annexing Texas to the United States, and the propriety or impropriety of the conduct of the President in directing the occupation by the army of the country between the Nueces and the Rio Grande.

It is enough for us to know that our soil has been desecrated; that our country has been invaded; that a hostile band of armed soldiers have killed and wounded our citizens; and that the American army, under General Taylor, is in a hazardous situation and in need of assistance. At a time like this shall we be struggling for a mere party triumph? Can no circumstances or conditions of the country, no perils, however great, induce gentlemen in the opposition to cease their cavilling against the Administration or postpone their hostility to the President? Is not this an occasion when, for a time, all party distinctions and differences shall be forgotten, and, with one voice, with one heart, and with one hand, we all shall march forward in defence of the soil, the rights, and the honor of the country? Does patriotism require at your hands, as the faithful representatives of the people, that you should now, in your elevated position, denounce the President for a violation of the Constitution, by making an unauthorized and unholy invasion on the soil and territory of Mexico? Does your regard for the Constitution of the country require you to denounce this war

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viz.: the defence of the Executive. It was not a question of dividing the country, but a question, where is the boundary of the country? And it was a fact that should be borne in mind, that, out of fifteen or sixteen propositions for the annexation of Texas, there was but one that did not define its limits; and that one was passed by the House of Representatives and the Senate, and became a law. That left the question of boundary an open question, expressly declaring that "so much of the territory as *rightfully belongs* to Texas should be annexed to the United States." Congress could not untie the Gordian knot at that time, or define precisely what the boundary was; it was left for the Executive to do this, and Congress was called upon to sanction that act.

He proclaimed in the face of this House and the country that the marching our army to the Rio Grande was contrary to the laws of this country, a usurpation on the rights of this House, and an aggression on the rights of Mexico. Gentlemen were invited to make the most of this declaration.

Early in the second year of the war (1847) it was seen that the march to the city of Mexico to dictate terms of peace in the halls of Montezuma was not going to be the easy, quick, and inexpensive progress that had been prophesied by the Administration party, and a popular reaction occurred against the war. A number of Senators and Representatives found courage enough to vote against further appropriations for what they termed the "conquest" of a sister republic. Among these was Senator Thomas Corwin (Ohio), who, on February 11, 1847, justified his vote by a long and able speech of which the following was the peroration:

AGAINST THE MEXICAN WAR

SENATOR CORWIN

What is the territory, Mr. President, which you propose to wrest from Mexico? It is consecrated to the heart of the Mexican by many a well-fought battle with his old Castilian master. His Bunker Hills, and Saratogas, and Yorktowns are there. The Mexican can say, "There I bled for liberty! and shall I surrender that consecrated home of my affections to the Anglo-Saxon invaders? What do they want with it? They have

Texas already. They have possessed themselves of the territory between the Nueces and the Rio Grande. What else do they want? To what shall I point my children as memorials of that independence which I bequeath to them, when those battlefields shall have passed from my possession?"

Sir, had one come and demanded Bunker Hill of the people of Massachusetts, had England's lion ever showed herself there, is there a man over thirteen and under ninety who would not have been ready to meet him—is there a river on this continent that would not have run red with blood—is there a field but would have been piled high with the unburied bones of slaughtered Americans before these consecrated battlefields of liberty should have been wrested from us? But this same American goes into a sister republic, and says to poor, weak Mexico, "Give up your territory—you are unworthy to possess it—I have got one-half already—all I ask of you is to give up the other!" England might as well, in the circumstances I have described, have come and demanded of us, "Give up the Atlantic slope—give up this trifling territory from the Allegheny mountains to the sea; it is only from Maine to St. Mary's—only about one-third of your republic, and the least interesting portion of it." What would be the response? They would say, we must give this up to John Bull. Why? "He wants room." The Senator from Michigan says he must have this. Why, my worthy Christian brother, on what principle of justice? "I want room!"

Sir, look at this pretence of want of room. With twenty millions of people you have about one thousand millions of acres of land inviting settlement by every conceivable argument. But the Senator from Michigan [Mr. Cass] says we will be two hundred millions in a few years, and we want room. If I were a Mexican I would tell you, "Have you not room in your own country to bury your dead men? If you come into mine we will greet you with bloody hands, and welcome you to hospitable graves."

The demand for "room," said Senator Corwin, had been "the plea of every robber-chief from Nimrod to the present hour." The Senator called the roll of the great conquerors, with significant remarks about the fitting retribution which had been meted out to them for their rapacity.

Ammon's son (so was Alexander named), after all his victories, died drunk in Babylon! The vast empire he conquered

Montesquieu did not think highly of this way of "waking up." "Happy," says he, "is that nation whose annals are tiresome."

The Senator from Michigan has a different view of this. He thinks that a nation is not distinguished until it is distinguished in war; he fears that the slumbering faculties of Europe have not been able to ascertain that there are twenty millions of Anglo-Saxons here, making railroads and canals, and speeding all the arts of peace to the utmost accomplishment of the most refined civilization. They do not know it! And what is the wonderful expedient which this democratic method of making history would adopt in order to make us known? Storming cities, desolating peaceful, happy homes, shooting men—ay, sir, such is war—and shooting women, too!

This—this is the way we are to be made known to Europe. This—this is to be the undying renown of free, republican America! "She has stormed a city—killed many of its inhabitants of both sexes—she has room!" So it will read. Sir, if this were our only history, then may God of his mercy grant that its volume may speedily come to a close.

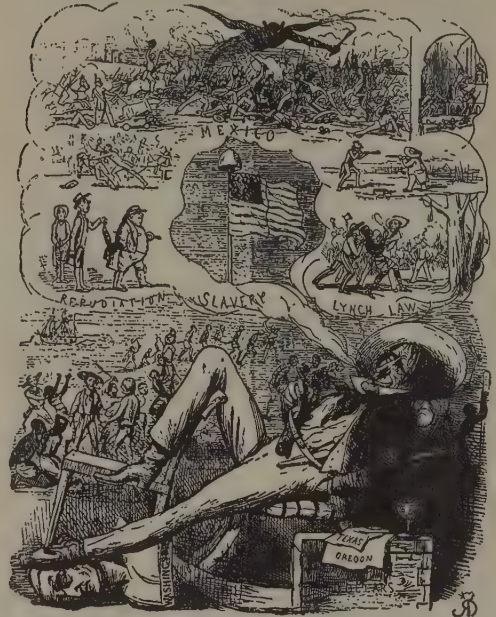
Mr. President, this uneasy desire to augment our territory has depraved the moral sense, and blunted the otherwise keen sagacity of our people. What has been the fate of all nations who have acted upon the idea that they must advance? Our young orators cherish this notion with a fervid, but fatally mistaken zeal. They call it by the mysterious name of "destiny." "Our destiny," they say, is "onward," and hence they argue, with ready sophistry, the propriety of seizing upon any territory and any people that may lie in the way of our "fated" advance.

Rome thought, as you now think, that it was her destiny to conquer provinces and nations, and no doubt she sometimes said as you say, "I will conquer a peace." And where now is she, the Mistress of the World? The spider weaves his web in her palaces, the owl sings his watch-song in her towers. Teutonic power now lords it over the servile remnant, the miserable memento of old and once omnipotent Rome. Sad, very sad, are the lessons which time has written for us. Through and in them all I see nothing but the inflexible execution of that old law, which ordains as eternal that cardinal rule, "Thou shalt not covet thy neighbor's goods, nor anything which is his."

Since I have lately heard so much about the dismemberment of Mexico, I have looked back to see how, in the course of events, which some call "Providence," it has fared with other nations who engaged in this work of dismemberment. I see that in the

to "get room" became the prey of the generals he had trained; it was disparted, torn to pieces, and so ended.

I was somewhat amazed, the other day, to hear the Senator



THE LAND OF LIBERTY
Cartoon by Richard Doyle in "Punch," 1847

from Michigan [Lewis Cass] declare that Europe had quite forgotten us till these battles waked them up. I suppose the Senator feels grateful to the President for "waking up" Europe. Does the President, who is, I hope, read in civic as well as military lore, remember the saying of one who had pondered upon history long—long, too, upon man, his nature and true destiny?

latter half of the eighteenth century three powerful nations, Russia, Austria, and Prussia, united in the dismemberment of Poland. They said, too, as you say, "it is our destiny." They "wanted room." Doubtless each of these thought, with his share of Poland, his power was too strong ever to fear invasion or even insult. One had his California, another his New Mexico, and the third his Vera Cruz. Did they remain untouched and incapable of harm? Alas! No—far, very far, from it. Retributive justice must fulfill its destiny, too. A very few years pass off, and we hear of a new man, a Corsican lieutenant, the self-named "armed soldier of Democracy," Napoleon. He ravages Austria, covers her land with blood, drives the Northern Cæsar from his capital, and sleeps in his palace. Austria may now remember how her power trampled upon Poland. Did she not pay dear, very dear, for her California?

But has Prussia no atonement to make? You see this same Napoleon, the blind instrument of Providence, at work there. The thunders of his cannon at Jena proclaim the work of retribution for Poland's wrongs; and the successors of the Great Frederick, the drill-sergeant of Europe, are seen flying across the sandy plain that surrounds their capital, right glad if they may escape captivity or death. But how fares it with the Autocrat of Russia? Is he secure in his share of the spoils of Poland? No. Suddenly we see, sir, six hundred thousand armed men marching to Moscow. Does his Vera Cruz protect him now? Far from it. Blood, slaughter, desolation spread abroad over the land, and finally the conflagration of the old commercial metropolis of Russia closes the retribution she must pay for her share in the dismemberment of her weak and impotent neighbor. Mr. President, a mind more prone to look for the judgments of Heaven in the doings of men than mine cannot fail in this to see the providence of God. When Moscow burned it seemed as if the earth was lighted up, that the nations might behold the scene. As that mighty sea of fire gathered and heaved and rolled upward, and yet higher, till its flames licked the stars, and fired the whole heavens, it did seem as though the God of the nations was writing in characters of flame on the front of his throne that doom that shall fall upon the strong nation which tramples in scorn upon the weak.

And what fortune awaits him, the appointed executor of this work, when it was all done? He, too, conceived the notion that his destiny pointed onward to universal dominion. France was too small—Europe, he thought, should bow down before him. But as soon as this idea took possession of his soul he,

too, becomes powerless. Right there, while he witnessed the humiliation, and doubtless meditated the subjugation of Russia, He who holds the winds in his fist gathered the snows of the north and blew them upon his six hundred thousand men; they fled—they froze—they perished. And now the mighty Napoleon, who had resolved on universal dominion, *he*, too, is summoned to answer for the violation of that ancient law, "thou shalt not covet anything which is thy neighbor's." How is the mighty fallen? He, beneath whose proud footstep Europe trembled, he is now an exile at Elba, and now finally a prisoner on the rock of St. Helena, and there, on a barren island, in an unfrequented sea, in the crater of an extinguished volcano, *there* is the death-bed of the mighty conqueror. All his *annexations* have come to that! His last hour is now come, and he, the man of *destiny*, he who had rocked the world as with the throes of an earthquake, is now powerless, still—even as a beggar, so he died. On the wings of a tempest that raged with unwonted fury, up to the throne of the only Power that controlled him while he lived, went the fiery soul of that wonderful warrior, another witness to the existence of that eternal decree, that they who do not rule in righteousness shall perish from the earth. He has found "room" at last.

And France, *she*, too, has found "room." Her "eagles" now no longer scream along the banks of the Danube, the Po, and the Borysthene. They have returned home to their old eyrie, between the Alps, the Rhine, and the Pyrenees; so shall it be with yours. They may carry them to the loftiest peaks of the Cordilleras, they may wave with insolent triumph in the Halls of the Montezumas, the armed men of Mexico may quail before them, but the weakest hand in Mexico, uplifted in prayer to the God of Justice, may call down against you a Power, in the presence of which the iron hearts of your warriors shall be turned into ashes.

One hundred millions of dollars will be wasted in this fruitless war. Had this money of the people been expended in making a railroad from your northern lakes to the Pacific, as one of your citizens has begged of you in vain, you would have made a highway for the world between Asia and Europe. Your Capitol then would be within thirty or forty days' travel of any and every point on the map of the civilized world. Through this great artery of trade you would have carried through the heart of your own country the teas of China, and the spices of India, to the markets of England and France. Why, why, Mr. President, did we abandon the enterprises of peace and betake

path, I may add the only way of duty, of prudence, of true patriotism. Let us abandon all idea of acquiring further territory, and by consequence cease at once to prosecute this war. Let us call home our armies, and bring them at once within our own acknowledged limits. Show Mexico that you are sincere when you say you desire nothing by conquest. She has learned that she cannot encounter you in war, and if she had not she is too weak to disturb you here. Tender her peace, and, my life on it, she will then accept it. But whether she shall or not, you will have peace without her consent. It is your invasion that has made war, your retreat will restore peace. Let us then close forever the approaches of internal feud, and so return to the ancient concord and the old way of national prosperity and permanent glory. Let us here, in this temple consecrated to the Union, perform a solemn lustration; let us wash Mexican blood from our hands, and on these altars, in the presence of that image of the Father of his country that looks down upon us, swear to preserve honorable peace with all the world, and eternal brotherhood with each other.

Other statesmen began to exonerate themselves from having been parties to the conflict, and to charge each other with this responsibility. The most notable of these recriminations occurred in the Senate on February 24 when Thomas H. Benton (Missouri) charged John C. Calhoun (South Carolina) with being the author of the war while acting as Secretary of State under President Tyler,¹ and Senator Calhoun replied acknowledging responsibility for the *annexation* of Texas, and any *defensive* measures which that act involved, but throwing upon President Polk and his supporters, among whom Senator Benton might, for certain acts, be numbered, all the blame for involving the country in a war of invasion, thus putting the Government in the wrong, and presenting the United States before the world in the evil light of an aggressor.

LINCOLN'S "SPOT RESOLUTIONS"

On December 22, 1847, Abraham Lincoln (Illinois) introduced in the House his famous "Spot Resolutions," calling on the President for information:

¹See page 334.

ourselves to the barbarous achievements of war? Why did we "forsake *this* fair and fertile field to batten on that moor"?!

There is one topic connected with this subject which I tremble when I approach, and yet I cannot forbear to notice it. It meets you in every step you take. It threatens you which way soever you go in the prosecution of this war. I allude to the question of slavery. Opposition to its further extension, it must be obvious to every one, is a deeply rooted determination with men of all parties in what we call the non-slaveholding States. It is vain now to speculate about the reasons for this. Gentlemen of the South may call it prejudice, passion, hypocrisy, fanaticism. I shall not dispute with them now on that point. The great fact that it is so, and not otherwise, is what it concerns us to know. You nor I cannot alter or change this opinion if we would. These people only say we will not, cannot, consent that you shall carry slavery where it does not already exist. They do not seek to disturb you in that institution, as it exists in your States. Enjoy it if you will, and as you will. This is their language, this their determination.

How is it in the South? Can it be expected that they should expend in common their blood and their treasure in the acquisition of immense territory, and then willingly forego the right to carry thither their slaves, and inhabit the conquered country if they please to do so? Sir, I know the feelings and opinions of the South too well to calculate on this.

If, then, we persist in war, which if it terminate in anything short of a mere wanton waste of blood as well as money, must end (as this bill proposes) in the acquisition of territory, to which at once this controversy must attach—this bill would seem to be nothing less than a bill to produce internal commotion. Should we prosecute this war another moment, or expend one dollar in the purchase or conquest of a single acre of Mexican land, the North and the South are brought into collision on a point where neither will yield.

Oh, Mr. President, it does seem to me, if hell itself could yawn and vomit up the fiends that inhabit its penal abodes, commissioned to disturb the harmony of this world, and dash the fairest prospect of happiness that ever allured the hopes of men, the first step in the consummation of this diabolical purpose would be to light up the fires of internal war and plunge the sister States of this Union into the bottomless gulf of civil strife. We stand this day on the crumbling brink of that gulf—we see its bloody eddies wheeling and boiling before us—shall we not pause before it be too late! How plain again is here the

First. Whether the spot on which the blood of our citizens was shed, as in his message declared, was or was not within the territory of Spain, at least after the treaty of 1819 until the Mexican revolution.

Second. Whether that spot is or is not within the territory which was wrested from Spain by the revolutionary government of Mexico.

Third. Whether that spot is or is not within a settlement of people, which settlement has existed ever since long before the Texas revolution, and until its inhabitants fled before the approach of the United States army.

Fourth. Whether that settlement is or is not isolated from any and all other settlements by the Gulf and the Rio Grande on the south and west, and by wide uninhabited regions on the north and east.

Fifth. Whether the people of that settlement, or a majority of them, or any of them, have ever submitted themselves to the government or laws of Texas or of the United States, by consent or by compulsion, either by accepting office, or voting at elections, or paying tax, or serving on juries, or having process served upon them, or in any other way.

Sixth. Whether the people of that settlement did or did not flee from the approach of the United States army, leaving unprotected their homes and their growing crops, *before* the blood was shed, as in the message stated; and whether the first blood, so shed, was or was not shed within the inclosure of one of the people who had thus fled from it.

Seventh. Whether our citizens, whose blood was shed, as in his message declared, were or were not, at that time, armed officers and soldiers, sent into that settlement by the military order of the President, through the Secretary of War.

Eighth. Whether the military force of the United States was or was not so sent into that settlement after General Taylor had more than once intimated to the War Department that, in his opinion, no such movement was necessary to the defence or protection of Texas.¹

On January 12, 1848, Mr. Lincoln spoke upon his resolutions. His conclusion was as follows:

¹These resolutions Mr. Lincoln took great pride in at the time, considering them a political *coup de main*, if not, indeed, a *coup d'état*, but they proved to be a *coup de grace* to his immediate political aspirations. His opponents ridiculed them as "spot" resolutions, with such effect that Lincoln's constituents turned against him; he did not seek a renomination, and a Democrat was elected to succeed him.—Henry C. Whitney, "Life of Lincoln," vol. I, page 154.

ARRAIGNMENT OF PRESIDENT POLK

ABRAHAM LINCOLN, M. C.

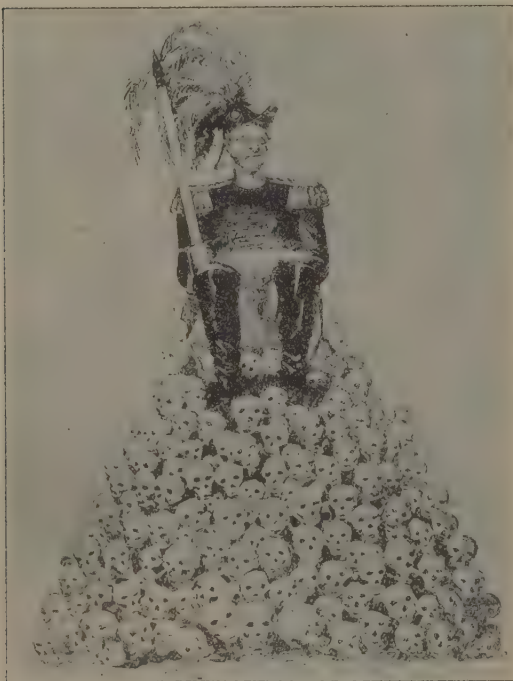
If the President can show that the soil was ours where the first blood of the war was shed then I am with him for his justification. But if he cannot or will not do this then I shall be fully convinced of what I more than suspect already—that he is deeply conscious of being in the wrong; that he feels the blood of this war, like the blood of Abel, is crying to Heaven against him; that originally having some strong motive—what, I will not stop now to give my opinion concerning—to involve the two countries in a war, and trusting to escape scrutiny by fixing the public gaze upon the exceeding brightness of military glory—that attractive rainbow that rises in showers of blood—that serpent's eye that charms to destroy—he plunged into it, and has swept on and on till, disappointed in his calculation of the ease with which Mexico might be subdued, he now finds himself he knows not where. How like the half-insane mumbling of a fever dream is the whole war part of his late message! At one time telling us that Mexico has nothing whatever that we can get but territory; at another showing us how we can support the war by levying contributions on Mexico. At one time urging the national honor, the security of the future, the prevention of foreign interference, and even the good of Mexico herself as among the objects of the war; at another telling us that “to reject indemnity, by refusing to accept a cession of territory, would be to abandon all our just demands, and to wage the war, bearing all its expenses, without a purpose or definite object.” So, then, this national honor, security of the future, and everything but territorial indemnity may be considered the no-purposes and indefinite objects of the war!

As to the mode of terminating the war and securing peace the President is equally wandering and indefinite. First, it is to be done by a more vigorous prosecution of the war in the vital parts of the enemy's country; and, after apparently talking himself tired on this point, the President drops down into a half-despairing tone, and tells us that “with a people distracted and divided by contending factions, and a government subject to constant changes by successive revolutions, the continued success of our arms may fail to secure a satisfactory peace.” Then he suggests the propriety of wheedling the Mexican people to desert the counsels of their own leaders, and, trusting in our protestations, to set up a government from which we can secure

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adjudged against Mexico in the conventions of 1839 and 1843.



AN AVAILABLE CANDIDATE

THE ONE QUALIFICATION FOR A WIG PRESIDENT

[Caricature of General Scott in 1852]

From the collection of the New York Historical Society

a satisfactory peace; telling us that “this may become the only mode of obtaining such a peace.” But soon he falls into doubt of this, too; and then drops back onto the already half-abandoned ground of “more vigorous prosecution.” All this shows that the President is in nowise satisfied with his own positions. First he takes up one, and in attempting to argue us into it he argues himself out of it, then seizes another and goes through the same process, and then, confused at being able to think of nothing new, he snatches up the old one again, which he has some time before cast off. His mind, taxed beyond its power, is running hither and thither, like some tortured creature on a burning surface, finding no position on which it can settle down to be at ease.

Again, it is a singular omission in this message that it nowhere intimates when the President expects the war to terminate. At its beginning, General Scott was by this same President driven into disfavor, if not disgrace, for intimating that peace could not be conquered in less than three or four months. But now, at the end of about twenty months, during which time our arms have given us the most splendid successes, every department and every part, land and water, officers and privates, regulars and volunteers, doing all that men could do, and hundreds of things which it had ever before been thought men could not do—after all this, this same President gives a long message, without showing us that as to the end he himself has even an imaginary conception. As I have before said, he knows not where he is. He is a bewildered, confounded, and miserably perplexed man. God grant he may be able to show there is not something about his conscience more painful than all his mental perplexity.

On February 2, 1848, a treaty of peace known from the place where it was made as the “Treaty of Guadalupe Hidalgo,” was signed by Mexico and the United States, and on July 4 was proclaimed to be in force. The American negotiator was Nicholas P. Trist of Virginia. By the terms of this treaty the Rio Grande was established as the boundary of the eastern portion of the cession, and in the west the Rivers Gila and Colorado were so followed as to give the United States all the territory then known as New Mexico and Upper California. The United States agreed to pay Mexico \$15,000,000, and to assume the payment of all claims

CHAPTER XIII

THE TRENT AFFAIR

Captain Charles Wilkes, U. S. N., of the *San Jacinto*, Takes John Slidell and James M. Mason, Confederate Commissioners, to Great Britain, from British steamer *Trent*—Act Is Approved by Gideon Welles, Secretary of the Navy—Negotiations with British Government—William H. Seward, Secretary of State, Delivers Up the Commissioners to Great Britain—Debate in the Senate on This Act: in Favor, Charles Sumner [Mass.]; Opposed, John P. Hale [N. H.].

IN the Civil War the chief hope of the Southern Confederacy lay in securing foreign intervention. In the beginning of the conflict it sent as commissioners to Great Britain ex-United States Senators James M. Mason (Virginia) and John Slidell (Louisiana). On October 12, 1861, they sailed with their families on the blockade-runner *Theodora* from Charleston to Havana, and there took the British mail steamer *Trent* sailing for England via St. Thomas, a Danish island in the West Indies. On November 8 Captain Charles Wilkes of the United States war frigate *San Jacinto* compelled the *Trent*, which had not yet arrived at St. Thomas, to stop; entering the British steamer he took the commissioners on board of his own vessel and carried them to Fort Warren in Boston harbor, where they were held as prisoners of war.

This act was approved by Gideon Welles, Secretary of the Navy. In his report to Congress on December 2, he said:

The prompt and decisive action of Captain Wilkes on this occasion merited and received the emphatic approval of the department; and if a too generous forbearance was exhibited by him in not capturing the vessel which had these Rebel enemies on board, it may, in view of the special circumstances, and of

its patriotic motives, be excused; but it must by no means be permitted to constitute a precedent hereafter, for the treatment of any case of similar infraction of neutral obligations by foreign vessels engaged in commerce or the carrying trade.

However Lincoln's logical instincts engendered in his mind the opinion that Wilkes' action was technically unauthorized and would be seized upon by England as a pretext to involve the nation in a war. He therefore conferred with the Hon. Thomas Ewing [O.], a retired statesman of the preceding generation, who assured him that Captain Wilkes had been wrong by the law of nations. Accordingly, on November 30 a dispatch was sent to our minister recounting the facts, disavowing any complicity in Captain Wilkes' act, and expressing a desire to treat with England on the subject. On the same day the British minister for foreign affairs sent a note to Lord Lyons, the British minister at Washington, expressing the desire of the British Cabinet that our nation would disavow any authority in the affair, would yield up the prisoners, and make an apology; all of which were impressed with the force and authority of an *ultimatum*.

Long after the war it transpired (in the publication of the letters of Lord Palmerston, Prime Minister of Great Britain at the time of the Trent affair) that the legal advisers of the British Crown on November 11, 1861, two weeks before the seizure of the Confederate commissioners was known in England, had delivered an opinion by which an act such as that of Captain Wilkes was justified. This opinion was based on the uniform practice of Great Britain herself as upheld by no less an authority on maritime law than Sir William Scott, Lord Stowell. It was given in reference to an American war vessel (other than the *San Jacinto*) which was actually in an English port at the time, as to whether she had the right, by international law, to stop and search the West India packet then expected soon to arrive in England.

One of these letters of Lord Palmerston was to the editor of the London *Times*. It said:

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to denounce the surrender of the Confederate commissioners. Said Senator Hale:

To my mind a more fatal act could not mark the history of this country—an act that would surrender at once to the arbitrary demand of Great Britain all that was won in the Revolution, reduce us to the position of a second-rate power, and make us the vassal of Great Britain. I would go as far as any reasonable man would go for peace, but no further. I would not be unwilling to submit this subject to the arbitration of any of the great powers of Europe; but I would not submit to the arbitrary, the absolute demand of Great Britain, to surrender these men, and humble our flag even to escape from a war with Great Britain. No man would make more honorable concessions than I would to preserve the peace; but sometimes peace is less honorable and more calamitous than war. The Administration which is now in power ought to know what the feeling of the country is. If my friend from Indiana [Henry S. Lane] will permit me, I will repeat what he said to me this morning at the breakfast table. [Mr. Lane assented.] The honorable Senator said the State of Indiana has now sixty thousand men in the field, and she would double that number in sixty days if a war with Great Britain should be brought about. I have seen many gentlemen, and I have seen none, not a man can be found, who is in favor of this surrender; for it would humiliate us in the eyes of the world, irritate our own people, and subject us to their indignant scorn. If we are to have war with Great Britain it will not be because we refuse to surrender Messrs. Mason and Slidell; that is a mere pretence. If war shall come it will be because Great Britain has determined to force war upon us. They would humiliate us first and fight us afterward. If we are to be humiliated, I prefer to take it after a war, and not before. It is true, war would be a sacrifice to the people. I think I see its horrors, its disasters, its carnage, its blood, and its desolation; but, sir, let war come; let your cities be battered down, your armies be scattered, your fields barren, to preserve untarnished the national honor; a regenerating spirit among your people will restore your armies, and rebuild your cities, and make fruitful your fields. Francis the First of France, at the battle of Pavia, his army overthrown and scattered and himself a prisoner, exclaimed, "All is lost but honor!" That honor preserved then was the germ of the greatness and the glory of France to-day. I pray that this Administration will not surrender our national honor. I tell them that hundreds and thousands and hundreds of thousands will rush to the battlefield,

It appeared that according to the principles of international law laid down in our courts by Lord Stowell and practiced and enforced by us, a belligerent has a right to stop and search any neutral not being a ship of war and being found on the high seas and being suspected of carrying enemy's dispatches; and that consequently this American cruiser might by our own principles of international law stop the West India packet, search her, and if the Southern men and their dispatches and credentials were found on board either take them out or seize the packet and carry her back to New York for trial.

Two days later Lord Palmerston wrote to the Queen to the same effect.

However, it seemed good to the British Administration directly to reverse their policy in this matter. By acceding to this reversal the United States Government thereby secured the British acknowledgment of its contention, adhered to through war and peace from the beginning of the nation, that the "right of search" was in contravention of the true principles of international law. Secretary Seward therefore seized the opportunity thus afforded him, and on December 26 handed Lord Lyons a dispatch in which he waived the question of Captain Wilkes' right to do as he did, and, ingeniously taking advantage of the officer's infraction of the prize law (in not bringing the prisoners into a prize court for adjudication), he ordered their discharge. The Confederate commissioners were given over to the custody of a British vessel by which they were transported to London. There they made no political impression and remained abroad until they died, expatriated.

THE TRENT AFFAIR

SENATE, DECEMBER 26, 1861-JANUARY 20, 1862

Discussion of the Trent affair came up in the next Congress on December 26, upon a resolution of Senator John P. Hale (New Hampshire) asking the President to transmit to the Senate the correspondence with Great Britain regarding it, which motion, after speaking thereon, he withdrew, indicating that he wished merely

and bare their breasts to its perils rather than submit to degradation.

If this Administration will not listen to the voice of the people they will find themselves engulfed in a fire that will consume them like stubble; they will be helpless before a power that will hurl them from their places. If war comes we shall not, Mr. President, be entirely without consolation and encouragement. If war shall be forced upon us, as some gentlemen suppose, we shall be fighting in a great cause—the cause of constitutional liberty, whose baptism centuries ago was in the blood which flowed in England from the scaffold, and which animates millions to-day on the face of the earth, even of Englishmen, whatever may be the policy of their administration. If this war is determined upon in England it will be because it is out of the hands of statesmen and in those of pettifoggers, who are called the law officers of the Crown, who, it seems, can rush us into war. If we are, sir, to preserve peace it must be with honor. But if we are to have war—I do not say that we shall—it will not be without its advantages. It will be a war that cannot be carried on without fighting; and if we only understand our true position we can proclaim to every man who speaks the English language on God's footstool the cause for which we are fighting; and this appeal will reach the hearts of millions of Englishmen, Irishmen, and Frenchmen.

We have heard, Mr. President, some fears expressed that Louis Napoleon is taking sides with England, and that we are to contend with the combined energies of both France and England. I do not believe it. I believe if Louis Napoleon harbors one single sentiment, if his action is guided by one single principle, if he has one single feeling that is predominant over all others, it is to have a fair field to retrieve the disastrous issue of Waterloo. And, besides, sir, all over this country, throughout Canada, and in Ireland, there are hundreds and thousands and hundreds of thousands of true-hearted Irishmen who have long prayed for an opportunity to retaliate upon England for the wrongs which for centuries that government has inflicted upon their fatherland. If we know our own position and our own strength—I refer to the strength of principle—there will be nothing to be afraid of in this contest. If war must come, let it come; but I tell you, and I do not pretend to be a prophet, I think the slightest sagacity in public councils will sustain me in the position that if England enters upon this war she will enter upon one of more than doubtful contingency. She will be at war with the spirit of the age, with the irresistible genius of

liberty, and with the sympathies of her own best people; she will war with a cause that is dear to the hearts of patriots the world over; she will war with a cause upon which we may invoke with confidence the blessings of the God of Liberty, who will not fail in His own good time and in His own way to vindicate His own cause.

I again say, if this war must come, let it come; and let us thank God that He has made us the chosen instrument in His hand to vindicate His own cause. I withdraw my motion.

Senator Charles Sumner (Massachusetts) replied, renewing the motion in order to speak upon it. He begged the Senate not to judge the Administration on insufficient evidence.

I have myself a firm conviction that this question will be peaceably and honorably adjusted. I do not believe that it is a question to be settled by war; and I hail with gratitude the suggestion of the honorable Senator, that, in making his speech, which may, in a certain sense, be called a war speech, he has expressed a willingness to submit the question to arbitration. Let me not be understood as intimating that that mode is under consideration. I am not authorized to say anything on the question. I content myself with repeating what I have already said, that it is in safe hands, and that it will be better for us to reserve ourselves for the question when it shall be presented in a practical form, and not to speak on hypotheses which the facts may afterward show to have been false. I withdraw the motion.

The President voluntarily transmitted the correspondence on January 6, 1862. Senator Sumner thereupon moved its reference to the Committee on Foreign Relations, and announced that he would speak later on the subject. He contented himself with saying:

There is, Mr. President, an important question of international law discussed in the papers, interesting not only to our own country, but to all foreign countries. As a precedent it will be of great value. If Great Britain has been well sustained in her recent course it is only because she has turned her back upon the practice and precedents of her history, and adopted for the moment the practice and the precedents of American history.

to advance, and which other European nations have accepted with regard to the sea. Indeed, Great Britain cannot complain except by now adopting those identical principles; and, should we undertake to vindicate the act, it can be done only by repudiating those identical principles. Our two cases will be reversed. In the struggle between Laertes and Hamlet the two combatants exchanged rapiers; so that Hamlet was armed with the rapier of Laertes and Laertes was armed with the rapier of Hamlet. And now on this sensitive question a similar exchange has occurred. Great Britain is armed with American principles, while to us are left only those British principles which, throughout our history, have been constantly, deliberately, and solemnly rejected.

An English writer put the case for his government as follows:

"It is not to the right of search that we object, but to the following seizure without process of law. What we deny is the right of a naval officer to stand in place of a prize court and adjudicate, sword in hand, with a *sic volo sic jubeo* on the very deck which is a part of our territory."

Thus it appears that the present complaint of the British Government is not founded on the assumption by the American war steamer of the belligerent right of search; nor on the ground that this right was exercised on board a neutral vessel between two neutral ports nor that it was exercised on board a mail steamer, sustained by a subvention from the Crown, and offered in part from the royal navy; nor that it was exercised in a case where the penalties of contraband could not attach; but it is founded simply and precisely on the idea that persons other than apparent officers in the military or naval service cannot be taken out of a neutral ship at the mere will of the officer who exercises the right of search, and without any form of trial. Therefore, the law of nations has been violated, and the conduct of Captain Wilkes must be disavowed, while men who are traitors, conspirators, and rebels, all in one, are allowed to go free.

Surely that criminals, though dyed in guilt, should go free is better than that the law of nations should be violated, especially in any rule by which war is restricted and the mood of peace is enlarged; for the law of nations cannot be violated without overturning the protection of the innocent as well as the guilty. On this general principle there can be no question. It is but an illustration of that important maxim, recorded in the *Latin of Fortescue*, "Better that many guilty should escape

¹ "So I will, so I order."

On January 20 Senator Sumner made the promised speech.

Mr. President, every principle of international law, when justly and authoritatively settled, becomes a safeguard of peace and a landmark of civilization. It constitutes a part of that code which is the supreme law, above all municipal laws, binding the whole commonwealth of nations. Such a settlement may be by a general congress of nations, or it may be through the general accord of treaties; or it may be by a precedent established under such conspicuous circumstances, with all nations as assenting witnesses, that it shall at once become in itself a commanding rule of international conduct. Especially is this the case if disturbing pretensions long maintained to the detriment of civilization are practically renounced by the power which has maintained them. Without any congress or treaties such a precedent has been established.

Here the Senator recounted the facts in the case.

While on their way, the ambassadors were arrested by Captain Wilkes, of the United States steamer *San Jacinto*, an accomplished officer, already well known by his scientific explorations, who, on this occasion, acted without instructions from his Government. If, in this arrest, he forgot for a moment the fixed policy of the Republic, which has been from the beginning like a frontlet between the eyes, and transcended the law of nations, as the United States have always declared it, his apology must be found in the patriotic impulse by which he was inspired, and the British examples which he could not forget. They were the enemies of his country, embodying in themselves the triple essence of worst enmity—treason, conspiracy, and rebellion; and they wore a pretended ambassadorial character which, as he supposed, according to high British authority, rendered them liable to be stopped.

If this transaction be regarded exclusively in the light of British precedents; if we follow the seeming authority of the British admiralty, speaking by its greatest voice; and especially if we accept the oft-repeated example of British cruisers, upheld by the British Government against the oft-repeated protests of the United States, we shall not find it difficult to vindicate it. The act becomes questionable only when brought to the touchstone of these liberal principles which, from the earliest times, the American Government has openly avowed and sought

than one innocent man should suffer," with this difference, that in the present case a few guilty escape, while the innocent everywhere on the sea obtain new security. And this security becomes more valuable as a triumph of civilization, when it is considered that it was long refused, even at the cannon's mouth.

Do not forget, sir, that the question involved in this controversy is strictly a question of law—precisely like a question of trespass between two neighbors. The British cabinet began proceedings by taking the opinion of their law advisers, precisely as an individual begins proceedings in a suit at law by taking the opinion of his attorney. To make such a question a case of war, or to suggest that war is a proper mode of deciding it, is simply to revive, in colossal proportions, the exploded ordeal by battle, and to imitate those dark ages when such proceeding was openly declared to be the best and most honorable mode of deciding even an abstract point of law.

In similar spirit has it been latterly proposed, amid the amazement of the civilized world, to withdraw the point of law, now raised by Great Britain, from peaceful adjudication and submit it to trial by combat. But the irrational anachronism of such a proposition becomes more flagrant from the inconsistency of the party which makes it; for it cannot be forgotten that, in times past, on this identical point of law, Great Britain persistently held an opposite ground from that which she now takes.

A question of international law should not be presented on any mere *argumentum ad hominem*. It would be of little value to show that Captain Wilkes was sustained by British authority and practice, if he were condemned by international law as interpreted by his own country. It belongs to us now, nay, let it be our pride, at any cost of individual prepossessions or transitory prejudices, to uphold that law in all its force, as it was often declared by the best men in our history, and illustrated by national acts; and let us seize the present occasion to consecrate its positive and unequivocal recognition. In exchange for the prisoners set free we receive from Great Britain a practical assent, too long deferred, to a principle early propounded by our country, and standing forth on every page of our history. The same voice which asks for their liberation renounces in the same breath an odious pretension, for whole generations the scourge of peaceful commerce.

In municipal questions Great Britain drew inspiration from her own native common law, which was instinct with freedom; but in maritime questions arising under the law of nations this

power seems to have acted on that obnoxious principle of the Roman law, positively discarded in municipal questions, *Quod principi placuit legis vigorem habet*,¹ and too often, under this inspiration, to have imposed upon weaker nations her own arbitrary will. The time has been when she pretended to sovereignty over the seas surrounding the British isles, as far as Cape Finisterre to the south, and Vanstaten in Norway to the north. But, driven from this pretension, other pretensions, less local but hardly less offensive, were avowed. The boast of "Rule, Britannia, rule the waves," was practically adopted by British courts of admiralty, and universal maritime rights were subjected to the special exigencies of British interests. In the consciousness of strength, and with a navy that could not be opposed, this power has put chains upon the sea.

The commerce of the United States, as it began to whiten the ocean, was cruelly decimated by these arbitrary pretensions. But the loss of property stung less than the outrage of impressment, by which foreigners, under the protection of the American flag, and also American citizens, without any form of trial, and at the mere mandate of a navy officer, who for the moment acted as a judicial tribunal, were dragged away from the deck which should have been to them a sacred altar. This outrage, which was feebly vindicated by the municipal claim of Great Britain to the services of her own subjects, was enforced arrogantly and perpetually on the high seas, where municipal law is silent and international law alone prevails. The belligerent right of search, derived from international law, was employed for this purpose, and the quarter-deck of every British cruiser was made a floating judgment-seat. The practice began early, and was continued constantly; nor did it discriminate among its victims. It is mentioned by Mr. Jefferson, and repeated by a British writer on international law, that two nephews of Washington, on their way home from Europe, were ravished from the protection of the American flag, without any judicial proceedings, and placed as common seamen under the ordinary discipline of British ships of war. The victims were counted by thousands. At our Department of State six thousand cases were recorded, and it was estimated that at least as many more might have occurred, of which no information had been received. If a pretension so intrinsically lawless could be sanctioned by precedent, Great Britain would have succeeded in interpolating it into the law of nations.

Protest, argument, negotiation, correspondence, and war

¹ "What is pleasing to the prince has the force of law."

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debates, extending over at least two generations, we have been wrong.

But it has been sometimes said the steam packet having on board the rebel emissaries was on this account liable to capture, and therefore the error of Captain Wilkes in taking the emissaries was simply an error of form and not of substance. I do not stop to consider whether an exercise of summary power against which our Government has so constantly protested can be under any circumstances an error merely of form, for the policy of our Government, most positively declared in its diplomacy, and also attested in numerous treaties, leaves no room to doubt that a neutral ship with belligerent passengers—not in the military or naval service—is not liable to capture, and therefore the whole proceeding was wrong, not only because the passengers were taken from the ship, but also because the ship, howsoever guilty morally, was not guilty legally in receiving such passengers on board. If this question were argued on English authorities it might be otherwise; but according to American principles the ship was legally innocent.

Here the speaker cited numerous treaties.

But still another question occurs. Beyond all doubt there were "dispatches" from the rebel belligerents on board the ship—such "dispatches" as rebels can write. Public report, the statement of persons on board the ship, and the boastful declaration of Jefferson Davis in a public document that these emissaries were proceeding under an appointment from him—which appointment would be a "dispatch" of the highest character—seem to place this fact beyond denial. Assuming this fact, the ship was liable to capture and to be carried off for adjudication, according to British authorities—unless the positive judgment of Sir William Scott in the case of the *Atalanta* (6 Robinson R., p. 440), and also the Queen's proclamation at the commencement of this rebellion, where "dispatches" are enumerated among contraband articles, are treated as nullities, or so far modified in their application as to be words, and nothing more. But, however binding and peremptory these authorities may be in Great Britain, they cannot be accepted to reverse the standing policy of the United States, which here again leaves no room for doubt. In order to give precision to the rights which it claimed and at the same time accorded on the ocean, our Government has sought to explain in treaties what it meant by contraband. As early as 1778, in the treaty with France,

itself—unhappily the last reason of republics as of kings—were all employed in vain by the United States to procure a renunciation of this intolerable pretension. The ablest papers in our diplomatic history are devoted to this purpose; and the only serious war in which we have been engaged, until summoned to encounter this rebellion, was to overcome by arms this very pretension which would not yield to reason. Beginning in the last century, the correspondence is at last closed by the recent reply of Mr. Seward to Lord Lyons. The long-continued occasion of conflict is now happily removed, and the pretension disappears forever—to take its place among the curiosities of the past.

But I do not content myself with asserting the persistent opposition of the American Government. It belongs to the argument, that I should exhibit this opposition and the precise ground on which it was placed—being identical with that now adopted by Great Britain. And here the testimony is complete. If you will kindly follow me, you shall see it from the beginning in the public life of our country, and in the authentic records of our Government.

Here the speaker quoted extensively from opinions of various American Secretaries of State: Thomas Jefferson, Timothy Pickens, John Marshall, James Madison, Daniel Webster, and Lewis Cass, and of Presidents John Adams, James Monroe, and John Quincy Adams. He also quoted an expression of the British doctrine made by the Prince Regent (afterwards George IV) on January 9, 1813, in refusing an armistice which had been proposed by President Madison on condition that Great Britain abandon her practice of searching American vessels and impressing seamen thereon on the ground of their being British subjects:

"His Royal Highness can never admit that, in the exercise of the UNDOUBTED and hitherto undisputed right of searching neutral merchant vessels in time of war, the impressment of British seamen, when found therein, can be deemed any violation of a neutral flag. Neither can he admit that the taking of such seamen from on board such vessels can be considered by any neutral state as a hostile measure or a justifiable cause of war."

The war was closed by the treaty at Ghent; but perversely the British pretension was not renounced.

Such is an authentic history of this British pretension, and of the manner in which it has been met by our Government. If Captain Wilkes is right, then throughout all these international

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negotiated by Benjamin Franklin, after specifying contraband articles, without including dispatches, it is declared that

"Free goods are all other merchandise and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods."—*Statutes at Large*, Vol. 8, p. 26.

This was before the judgment of Sir William Scott, recognizing dispatches as contraband; but in other treaties subsequent to this judgment, and therefore practically discarding it, after enumerating contraband articles, without specifying "dispatches," the same provision is introduced.

Clearly, then, according to American principles and practice, the ship was not liable to capture on account of dispatches on board.

But there is yet another question which remains. Assuming that dispatches may be contraband, would their presence on board a neutral ship, sailing between two neutral ports, render the voyage illegal? The mail steamer was sailing between Havana, a port of Spain, and St. Thomas, a port of Denmark. Here, again, if we bow to British precedent, the answer will be prompt. The British oracle has spoken. In a well-considered judgment, Sir William Scott declares that dispatches taken on board a neutral ship, sailing from a neutral country and bound for another neutral country, are contraband; but that, where there was reason to believe the master ignorant of their character, "it is not a case in which the property is to be confiscated, although in this, as in every other instance in which the enemy's dispatches are found on board a vessel, he has justly subjected himself to all the inconveniences of seizure and detention, and to all the expenses of those judicial inquiries which they have occasioned." (The *Rapid*, Edwards's Rep., 221.) Such is the law of nations according to Great Britain.

But even if this rule had not been positively repudiated by the United States it is so inconsistent with reason, and, in the present condition of maritime commerce, so utterly impracticable, that it can find little favor. If a neutral voyage between two neutral ports is rendered illegal on this account, then the postal facilities of the world, and the costly enterprises by which they are conducted, will be exposed to interruptions under which they must at times be crushed, to the infinite damage of universal commerce. If the rule is applicable in one sea it is applicable in all seas, and there is no part of the ocean which may not be vexed by its enforcement. It would reach to the Mediterranean and to the distant China seas as easily as to the Bahama Straits,

and it would be equally imperative in the chops of the British channel. Not only the stately mail steamers which traverse the ocean would be liable to detention and possible confiscation, but the same penalties must attach to the daily packets between Dover and Calais. The simple statement of such a consequence, following directly from the British rule, throws an instant doubt over it which the eloquent judgment of Lord Stowell cannot remove.

And now, as I conclude what I have to say on contraband in its several divisions, I venture to assert that there are two rules in regard to it, which the traditional policy of our country has constantly declared, and which it has embodied in treaty stipulations with every power which could be persuaded to adopt them: First, that no article shall be contraband unless it be expressly enumerated and specified as such by name. Secondly, that when such articles, so enumerated and specified, shall be found by the belligerent on board a neutral ship, the neutral shall be permitted to deliver them to the belligerent whenever, by reason of their bulk in quantity, such delivery may be possible, and then the neutral shall, without further molestation, proceed with all remaining innocent cargo to his destination, being any port, neutral or hostile, which at the time is not actually blockaded.

Such was the early fixed policy of our country with regard to contraband in neutral bottoms. It is recorded in several of our earlier European treaties. Approximation to it will be found in other European treaties, showing our constant effort in this direction. But this policy was not supported by the British theory and practice of international law, which was especially active during the wars of the French Revolution; and to this fact may, perhaps, be ascribed something of the difficulty which our Government encountered in its efforts to secure for this liberal policy the complete sanction of European states. But in our negotiations with the Spanish-American states the theory and practice of Great Britain were less felt; and so to-day that liberal policy, embracing the two rules already stated touching contraband, is among all American States the public law of contraband, stipulated and fixed in solemn treaties.

Of course this whole discussion proceeds on the assumption that the rebels are to be regarded as belligerents, which is the character already accorded to them by Great Britain. If they are not regarded as belligerents, then the proceeding of Captain Wilkes is indubitably illegal and void. To a political offender, however deep his guilt—though burdened with the undying

it the most offensive pretension that ever stalked upon its waves. To such conclusion Great Britain is irrevocably pledged. Nor treaty nor bond was needed. It is sufficient that her late appeal can be vindicated only by a renunciation of early, long-continued tyranny. Let her bear the rebels back. The consideration is ample; for the sea became free as this altered power went forth upon it, steering westward with the sun, on an errand of liberation.

In this surrender, if such it may be called, our Government does not even "stoop to conquer." It simply lifts itself to the height of its own original principles. The early efforts of its best negotiators—the patriot trials of its soldiers in an unequal war—have at length prevailed, and Great Britain, usually so haughty, invites us to practice upon those principles which she has so strenuously opposed. There are victories of force. Here is a victory of truth. If Great Britain has gained the custody of two rebels, the United States have secured the triumph of their principles.

If this result be in conformity with our cherished principles it will be superfluous to add other considerations; and yet I venture to suggest that estranged sympathies abroad may be secured again by an open adhesion to those principles, which already have the support of the Continental governments of Europe, smarting for years under British pretensions. The powerful organs of public opinion on the Continent are also with us. Hautefeuille, whose work on the Law of Nations is the arsenal of neutral rights, has entered into this debate with a direct proposition for the release of these emissaries as a testimony to the true interpretation of international law. And a journal, which of itself is an authority, the *Revue des Deux Mondes*, hopes that the United States will let the rebels go, simply because "it would be a triumph of the rights of neutrals to apply them for the advantage of a nation which has ever opposed and violated them."

But this triumph is not enough. The sea-god will in future use his trident less; but the same principles which led to the present renunciation of early pretensions naturally conduct to yet further emancipation of the sea. The work of maritime civilization is not finished. And here the two nations, equally endowed by commerce, and matching each other, while they surpass all other nations, in peaceful ships, may gloriously unite in setting up new pillars, which shall mark new triumphs, rendering the ocean a highway of peace, instead of a field of blood.

The congress of Paris, in 1856, where were assembled the

execrations of all honest men, and bending beneath the consciousness of the ruin which he has brought upon his country—the asylum of a foreign jurisdiction is sacred, whether on shore or on sea; and it is among the proudest boasts of England, at least in recent days, that the exiles of defeated democracies as well as of defeated dynasties have found a sure protection beneath her meteor flag. And yet this power has not always accorded to other flags what she claimed for her own. One of the objections diplomatically presented by Great Britain at the beginning of the present century to any renunciation of the pretension of impressment was "that facility would be given, particularly in the British Channel, by the immunity claimed by American vessels, to the escape of traitors" (State Papers, Vol. 3, p. 86), thus assuming that traitors—the companions of Robert Emmett, in Ireland, or the companions of Horne Took, in England—ought to be arrested on board a neutral ship; but that the arrest could be accomplished only through the pretension of impressment. But this flagrant instance cannot be a precedent for the United States, which has always maintained the right of asylum as firmly as it has rejected the pretension of impressment.

If I am correct in this review then the conclusion is inevitable. The seizure of the rebel emissaries on board a neutral ship cannot be justified according to our best American precedents and practice. There seems to be no single point where the seizure is not questionable, unless we choose to invoke British precedents and practice, which beyond doubt led Captain Wilkes into the mistake which he committed.

Mr. President, let the rebels go. Two wicked men, ungrateful to their country, are let loose with the brand of Cain upon their foreheads. Prison doors are opened; but principles are established which will help to free other men, and to open the gates of the sea. Never before in her active history has Great Britain ranged herself on this side. Such an event is an epoch. *Novus sæclorum nascitur ordo.*¹ To the liberties of the sea this power is now committed. To a certain extent this cause is now under her tutelary care. If the immunities of passengers, not in the military or naval service, as well as of sailors, are not directly recognized, they are at least implied; while the whole pretension of impressment, so long the pest of neutral commerce, and operating only through the lawless adjudication of a quarter-deck, is made absolutely impossible. Thus is the freedom of the seas enlarged, not only by limiting the number of persons who are exposed to the penalties of war, but by driving from "A new order of the ages is born."

plenipotentiaries of Great Britain, France, Austria, Prussia, Russia, Sardinia, and Turkey, has already led the way. Adopting the early policy of the United States, often proposed to foreign nations, this congress has authenticated two important changes in restraint of belligerent rights; first, that the neutral flag shall protect enemy's goods except contraband of war, and secondly, that neutral goods, except contraband of war, are not liable to capture under an enemy's flag. This is much. Another proposition, that privateering should be abolished, was defective in two respects: first, because it left nations free to employ private ships under a public commission as ships of the navy, and, therefore, was nugatory; and, secondly, because, if not nugatory, it was too obviously in the special interest of Great Britain, which, through her commanding navy, would thus be left at will to rule the sea. No change can be practicable which is not equal in its advantages to all nations; for the Equality of Nations is not merely a dry dogma of international law, but a vital national sentiment common to all nations. This cannot be forgotten; and every proposition must be brought sincerely to this equitable test.

But there is a way in which privateering can be effectively abolished without any shock to the Equality of Nations. A simple proposition, that private property shall enjoy the same immunity on the ocean which it now enjoys on land, will at once abolish privateering, and relieve the commerce of the ocean from its greatest perils, so that, like commerce on land, it shall be undisturbed except by illegal robbery and theft. Such a proposition will operate equally for the advantage of all nations. On this account, and in the policy of peace, which our Government has always cultivated, it has been already presented to foreign governments by the United States. You have not forgotten the important paper in which Mr. Marcy did this service, or the recent efforts of Mr. Seward in the same direction. In order to complete the efficacy of this proposition, and still further to banish belligerent pretensions, contraband of war should be abolished, so that all ships may freely navigate the ocean without being exposed to any question as to the character of persons or things on board. The Right of Search, which, on the occurrence of war, becomes an omnipresent tyranny, subjecting every neutral ship to the arbitrary invasion of every belligerent cruiser, would then disappear. It would drop, as the chains drop from an emancipated slave; or, rather, it would only exist as an occasional agent, under solemn treaties, in the war waged by civilization against the slave trade; and then it

would be proudly recognized as an honorable surrender to the best interests of humanity, glorifying the flag which made it.

With the consummation of these reforms in maritime law, not forgetting blockades under international law, war would be despoiled of its most vexatious prerogatives, while innocent neutrals would be exempt from its torments. The statutes of the sea, thus refined and elevated, will be the agents of peace instead of the agents of war. Ships and cargoes will pass unchallenged from shore to shore; and those terrible belligerent rights, under which the commerce of the world has so long suffered, will cease from troubling. In this work our country began early. It had hardly proclaimed its own independence before it sought to secure a similar independence for the sea. It had hardly made a Constitution for its own Government before it sought to establish a constitution similar in spirit for the government of the sea. If it did not prevail at once, it was because it could not overcome the unyielding opposition of Great Britain. And now the time is come when this champion of belligerent rights "has changed his hand and checked his pride." Welcome to this new alliance. Meanwhile, amid all present excitements, amid all present trials, it only remains for us to uphold the constant policy of the Republic, and to stand fast on the ancient ways.

CHAPTER XIV

THE PURCHASE OF ALASKA

William H. Seward, Secretary of State, Negotiates Treaty with Russia for the Purchase of Alaska—Senate Confirms Treaty, and United States Enters into Possession—Debate in the House on Appropriating \$7,200,000 for the Purchase: in Favor, General Nathaniel P. Banks [Mass.], Rufus P. Spalding [O.], General Robert C. Schenck [O.], Thaddeus Stevens [Pa.], Leonard Myers [Pa.], William Higby [Cal.]; Opposed, Cadwalader C. Washburn [Wis.], Benjamin F. Butler [Mass.], John A. Peters [Me.], Samuel Shellabarger [O.], Hiram Price [Ia.], Dennis McCarthy [N. Y.]—Bill Is Passed with Preamble Implying That Consent of the House Is Essential to a Treaty; Senate Rejects Bill on This Account; Compromise Preamble Is Adopted Which Is a Virtual Victory for the House, and Bill Is Passed by the Senate and Approved by President Johnson.

ON March 30, 1867, William H. Seward, Secretary of State in President Johnson's administration, formed a treaty with Russia (absolute in its terms, not referring to the ratification of the Senate and the appropriation by Congress of the purchase price), whereby the United States purchased Alaska (then known as Russian America) for \$7,200,000 in gold (equivalent to more than \$10,000,000 in "greenbacks"). The ratification of the Senate was readily granted, there being but two dissenting votes, but there was much opposition in the House to making the required appropriation. Indeed it was not attempted to do this until more than a year after the treaty had been made. With a view to forcing Congress to make the appropriation the astute Secretary of State, immediately after the treaty, took formal possession of the country in the name of the United States.

On May 18, 1868, General Nathaniel P. Banks (Massachusetts) introduced in the House a bill making

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the necessary appropriation to effect the treaty. It came before the House for discussion on June 30.

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General Banks held that, a treaty being the "supreme law of the land," it was the duty of Congress to give effect to that law by such legislation as was necessary to carry it into effect. He gave a review of the origin of the treaty.

It was suggested by those inquisitive, energetic, enterprising, and powerful men who have made this continent what it is; by men who went from my own section—Massachusetts and Maine—when the trumpet sounded for emigration to California, and who, with a still more adventurous spirit than that which sent them to California, were led to the more northern territory, which was then thought to be a bleak and barren wilderness. They looked upon the broad Pacific Ocean, the innumerable islands and bays that skirt and cluster upon and crown the northern Pacific, and they saw, from their experience in New England and in the British provinces, what they believed to be the germ of an inappreciable wealth and power for themselves and their country. They applied to the Russian Government for the privilege to share in what they might do to increase the prosperity of that country. The Russian Government refused it. Russia had ceded to the citizens of the United States by the convention of 1824 the right of fishery in those waters near the shore and other privileges connected with it. Russia believed that the privileges of that convention had been abused by American citizens; and when, at the end of ten years, the privileges expired by limitation, she declined to renew them, and thus deprived American citizens of the liberty of fishing in those waters.

Russia had always been liberal and friendly toward this Government. The Administration, perceiving the necessity and importance of this privilege, applied for a renewal of the treaty. But, upon a full discussion of that question and with a statement of her interests which we could not resist, she declined to accord it, and we were thus without any other right than that of pursuing our course upon the Pacific as upon the Indian or the other oceans of the globe. The enterprising citizens to whom I have referred, regarding with an experienced eye the importance

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of this privilege to our citizens on the Pacific coast, endeavored to persuade the Government to obtain for them the privileges which had been lost. The Russian Government declined as before, but it conceded what was better than the right of the extension of fishery; it conceded to this Government the right of purchase, and the territory to which the fisheries were incident was purchased for \$7,200,000.

The territory that has been transferred to us by the treaty of 1867 is substantially contiguous territory to the United States. I speak of its contiguity, not as being entirely without interruption, but as contiguous to territory long claimed and unwisely surrendered by us, and as a part of the continent which we could not allow to pass into the hands of any other people on the face of the earth. It is necessary for the defence of this country, for the preservation of its institutions and its power. It cannot in the nature of things remain with perfect certainty, and possibly not for a long time, in the possession of Russia. It is likely to be conceded and transferred to some other power, and it is indispensable to us that in such an event it should in the nature of things be transferred to the United States. It is five hundred and seventy-four thousand square miles in extent, three hundred and ninety-four thousand miles on land and one hundred and twenty-six thousand on the sea, making in land and water jurisdiction between five and six hundred thousand square miles. It commands a most important portion of this continent which we cannot afford to leave to the control of other nations. The peninsula of Alaska, from the central part, extends into Behring's sea. It is continued by a succession of islands—one hundred or more—which carries the jurisdiction of the United States into Behring's sea within five or six hundred miles of the Asiatic coast, and thus offers to the American people a territorial connection and a political jurisdiction which bring us to such a point that the citizens of this country can pass in an open boat, not being at any one time more than two days at sea, from the American coast on the Pacific to the Asiatic countries on the same ocean.

It is said that this territory is worthless, that we do not want it, that the Government had no right to buy it. These are objections that have been urged at every step in the progress of this country from the day when the forefathers from England landed in Virginia or in Massachusetts up to this hour. Whenever and wherever we have extended our possessions we have encountered these identical objections—the country is worthless, we do not want it—the Government has no right to buy it.

Here the speaker reviewed the objections urged against the acquisition of Louisiana, Texas, and California.

It was said at a later day in the Senate that the valley of the Columbia river was useless to us, costing more every year for its government than its entire value. "We are going to war," it was said, "for the navigation of an unnavigable river."

Upon representations like these we surrendered British Columbia to Great Britain. Mr. John Quincy Adams said in this House that she had no title to it whatever. We acquired it by the treaty of Ghent, then unsettled our title by joint occupation, and finally gave it up altogether upon the pretext now urged in regard to Russian America, that it was worth nothing, costing more than its value every year to govern it.

It is but a few years since the whole world regarded the country between the hundredth meridian of longitude and the Oregon cascade as barren and worthless. It was compared by the officers of the Government in 1863 to the Asiatic deserts. This country is now organized into prosperous States and Territories, and in 1870 will contain more than six hundred thousand people; and one of the States of this region has given us in five years an industrial product of more than fifty million dollars.

The Hudson Bay Company's possessions in British America were constantly described in the House of Commons as "sterile, ice-bound, unfit for the support of human beings." It is now called "the fertile belt," which, through the medium of colonization and a Pacific railway, is to bind together the British American colonies, and preserve to the mother country her waning power on the Atlantic and Pacific oceans. During the present month it was declared in the House of Commons that "The British possessions on the Pacific united to the colonies east of the Rocky Mountains would make the finest dominion in the world."

Now, sir, I propose for a few moments to consider what advantages Alaska possesses for the United States. Is it worthless? Do we need it? Has the Government the right to buy it? And, first, I speak of its geographical, commercial, and political importance. No man who looks upon the political condition of Europe can fail to see that it is quite possible it may be thrown at a day not distant into the vortex of a terrible war. There are to be great changes in the future; and it is certain that Russia will be among the first and the greatest of the powers of that future, whatever it may be. Whoever is engaged against her will strike for the conquest of this territory on the Pacific

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rendered it to England with the agreement that Vancouver should belong to her, but that the island of San Juan, between Vancouver and the continent, should be a part of the American possessions. The language of the treaty was that the boundary should be the strait which "separates Vancouver from the continent." But since that time England has interpreted the treaty to mean a strait which "separates the continent from Vancouver's Island," thus establishing a boundary which gives her the island of San Juan as well as that of Vancouver.

Thus the British Government extends her claims—and if the philosophy for which gentlemen now contend here is allowed to prevail she is likely to be successful not only in obtaining possession of San Juan, but of adjacent territory, upon the general plea that it is worthless, that we do not want it, that it will cost more to govern it every year than it is worth, and that the Government has no right to maintain possession of worthless territory held by disputed or doubtful titles. We agreed to a joint occupation of this island with England a few years ago, and having accomplished a joint occupation she is likely to get undisputed and permanent possession without any consideration whatever if the philosophy now urged upon us is allowed to prevail.

Transatlantic communication between England and the Pacific coast was proposed by Sir Edward Bulwer Lytton when at the head of the colonial offices thirty years ago, as necessary to preserve that coast to Great Britain. And, sir, within this month, on the 9th of June, there occurred in the House of Commons an elaborate discussion of this subject. Lord Milton, who has, perhaps, written the best work on the British colonial policy on this continent, declared that "the time had arrived when it was necessary for the English Government to consider whether it wished to keep the Pacific colonies in their present state of loyalty; and that if anything was to be done to establish a through communication from the Atlantic to the Pacific they must look to the Pacific colonies rather than to the Atlantic; for the British Pacific colonies," he said, "derived even their food from the United States. There was every year a great influx of Americans into the colonies, and there was a growing desire on the part of the colonists to join the United States."

And this is while Alaska is in the possession and under the control of the Russian Government, the Russian American Fur Company, and the Hudson Bay Company, and before it has gained any strength from its transfer to the American Government. Napoleon, at the siege of Toulon, pointed out the place

which did belong to her, and which will still belong to her if we refuse to execute the treaty for its purchase. This is not mere supposition. During the Crimean war the French and English squadrons in the Chinese sea secretly departed in 1853 for the purpose of taking possession of the Russian possessions in America. The Russian admiral, Putzujelm, illy prepared as he was for their attack, encountered them successfully and they were defeated.

The *British Colonist*, published in Vancouver, speaking in view of these events and on this subject, declared in 1853 that the Russian possessions must be English possessions. The Canadians at the same time echoed the same sentiment. Mr. Roebuck said in the House of Commons ten years ago that it was "the destiny of England to establish British colonies in India, Africa, and the whole of North America." And it is at least probable, if not certain, that if in the war in which we were recently engaged there had been a failure of our Government promptly to maintain its power and position, Russian America might in the end have gone to England, Mexico to France, and the Pacific coast would have been divided between them.

Now, sir, what is this territory? It begins at the parallel of 54° 40', running north to the seventy-second parallel north latitude. The territory has about the same extent in width. The southern portion, commencing at latitude 54° 40', the northern boundary of British Columbia, is the first feature of importance. It is a strip about three hundred miles in length and thirty miles wide, fronting upon British Columbia, and excluding it to this extent from the ocean. Governor Simpson said in reference to this strip of Russian America, which had been leased by the Hudson Bay Company from the Russian Government, that without it the British possessions on the Pacific would be comparatively worthless. It was leased upon that view by the Russian Government out of regard for the English interest on that coast. This reduces the ocean frontage of the English on the Pacific coast to the possession of Vancouver's Island, and a small strip of coast further north, which, however, without Vancouver's Island, would be of comparatively little or no value to them.

In the controversy upon the Oregon question it was the wish of a portion of our people, regarding it as a possession of small importance, to surrender altogether that territory; and in the final settlement, to use the language of Mr. Adams, the Government gave up six degrees of latitude to England without any consideration whatever, and with it Vancouver's Island, which was as clearly ours as any territory we ever possessed. We sur-

to the members of the constituent assembly, and he said to them, "there is Toulon." When we speak of Alaska in view of such declarations in the House of Commons as those I have quoted in regard to the loyalty of the British colonies on the Pacific, we may very well point the House to the territory between the forty-ninth and fifty-fourth parallels north, and say "there is Alaska!" The silent and irresistible influence of the American people will control the Pacific coast from the southern limit of California to Point Barrow on the Arctic Ocean.

A colony thrust in upon us on the Pacific by an arrangement unjust to this country, affecting its society and never satisfactory to its people, and which cannot long exist, a colony which is restrained from coming to us by the active intervention of the parent government, and is maintained upon considerations of foreign interest waiting for a moment when hostile demonstrations may be within its power, such a colony has not a natural existence, and can claim of us no consideration or support. It is not within the rule of international comity to insist upon maintaining and perpetuating its power by exterior aid where it has no self-supporting capacity, which alone gives governments a just claim to the respect of the nations of the world.

Well, sir, let me speak now of the advance of our power upon this continent, and what is likely to be its effect. The government of the world changes once or twice every century, and the theater of human history is transferred to different parts of the globe in the course of one or two centuries. A change of this character is now dawning upon us. Hitherto the Atlantic ocean has been the theater of its power and its triumphs. The control of the world hitherto has been in European hands, because Europe was the sovereign of this great sea. So long as the Atlantic ocean controls the destinies of men, so long the destiny and the idea of that control will be European, and so long as it is European it will stand in the way of the progress of civilization and bar the movements of the people to the acquisition or the resumption of the power that by the laws of nature belongs to them. How can it be changed? By intervention, by war? No, sir. The providence of God arranges other means for the control of the great families of men than such methods of violence. The changes in the theater of operation point out new fields, new pastures, green and beautiful, to which the children of creation may go. They come from the Atlantic, and they take their position upon what is called the great ocean of the world—the Pacific Ocean. That, with the Indian Ocean, which is part of the Pacific, so spoken of by geographers, covers

one hundred million square miles, and rolls between six hundred million people (Asiatics) on one side, and about three hundred million (Americans and Europeans) on the other. That ocean will be the theater of the triumphs of civilization in the future. It is on that line that are to be fought the great battles of the hereafter. It is there that the institutions of this world will be fashioned and its destinies decided. If this transfer is successful it will no longer be an European civilization or an European destiny that controls us. It will be a higher civilization and a nobler destiny. It may be an American civilization, an American destiny of six hundred million souls. Across that great ocean of the future there is not one that is not a friend of this country, nor a government that is not willing to strike hands with us in any just movement for any just purpose. Russia, China, Japan, India—so far as she is left to herself—even Turkey, the whole of these powers have been and are and still may be, even to the end, friendly to us. As for ourselves we have nothing to fear from Europe. In this future and in the presence of these powers Europe loses, as every nation in time loses, her prestige and becomes subordinate to the new powers in the progress of human civilization and the destiny of nations.

Now, sir, the possession of Alaska is the key of this ocean. It brings this continent within seventy or eighty miles of the Asiatic coast on the north. It gives us the control of the Arctic, whatever it may be, and of that Arctic Ocean we yet know nothing. This Arctic Ocean, too, has a future, it may be a boundless and glorious future, and it is for us. The possession of Alaska makes Behring sea substantially an American sea. It throws out from its peninsula the mysterious chain of Aleutian Islands almost to the Asiatic coast. Our watermen can communicate with an open boat by this strange chain of islands between America and Asia, between the continents of the New and the Old World, and with the aid of the chain of Kurile Islands, reach by the same boat China, Japan, or India, never being more than two or three days at sea, rarely or never out of sight of land, and exposed to as slight perils of the sea as mariners can ever expect to encounter. We can thus return, according to Chevalier, the visits which hundreds of years since the Asiatic people made to America by the same chains of Aleutian and Kurile Islands, who first settled Alaska, California, Mexico, and Central America, and gave to this continent its first faint impress of the coming civilization, traces of which are still seen on the coast and in the interior, in the language and in the customs of the

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islands, this intermediate communication between the two continents, this drawbridge between America and Asia, these stepping-stones across the Pacific Ocean. If we give them to another government, if we subject the Pacific Ocean to the control of Europe and European civilization, the power of the future is theirs and not ours, and its progress is after their spirit and idea and not ours. Instead of giving new light and leading to new thought other nations, we lose our own, and are followers rather than guides.

General Banks then spoke of the military importance of the acquisition.

I pass now to a consideration of the character and resources of the territory itself.

I received only a day or two since a letter from Mark Whiteman, a native of Russian Poland, who has been in this country twenty-one years, who served the United States in the survey of New Mexico, who went to California in pursuit of gold, thence to Australia, thence to Fraser's river, and then with his companions from the sources of the Stikine in a direct line north, working his way through the whole of Alaska. He says that we know nothing of the great importance of these new possessions; that in every direction it is rich in minerals, and that the natives are peaceful and friendly.

But I do not desire to put my statement solely upon human testimony. There are laws of nature, results of national experience running through many centuries, to which we refer for the support of our conclusions. Since the sixteenth century, until a very recent period, it has been the belief of everybody that the precious metals were confined to the tropics. It was not till California was acquired and gold discovered that this opinion ceased to have control of the public mind.

Moving from the tropics northward we found gold in California, even up to the very boundary of British Columbia. It was then discovered still further northward, at the sources of the Stikine, and the miners are still following it further northward. It was this law of nature so recently discovered that led Mark Whiteman and his associates from the sources of the Stikine river, through Alaska, to the Arctic Ocean, and that exhibited to them up to the ocean itself its limitless mineral wealth.

We have from everybody in Alaska—from miners, from correspondents, from sea-faring men, from lumber-men, from

people, from the Arctic Ocean to the Gulf of Mexico. But our visits will be for a different purpose, with nobler results. They returned nothing to the distant lands from which they came. In our return visit we take to the other continent civilization, laws, progress, and the ideas of justice between man and man in the government of nations. Before we have time to go, they come to us. A tale of the Arabian nights has nothing so marvelous as the recent movement of the Chinese nation. Abandoning, of their own motion, the policy of isolation, placing themselves first in the great movements of modern nations, they come first to us because we are territorially nearest and most ready to receive them. They take as their representative one of our own citizens, perhaps least likely to have been selected in advance for such a mission, who has by great good sense, as well as great good fortune, impressed upon them his spirit, and to whom they have confided their hopes and their power. There is nothing left that is impossible. Hereafter our civilization may be theirs. It is based upon the same idea. The civilization of Europe rests upon education of masters, the ignorance of the masses. The civilization of America of the present age and of the future rests upon universal education and intelligence. In China every person of mature age can read and write. Intelligence is at the basis of their government and the source of their power. It is the foundation upon which they construct their classes of society and their orders in government. And however their institutions of the family or the state may differ from ours, where intelligence is the common bond of union and the representative of the common power, as it is with us and with them, we shall be led gently but surely to the same objects and the same end. And they come to us at the moment when by a strange coincidence we push our territorial jurisdiction toward them. Both were animated by the same spirit and without the knowledge of each other moving to the same end by different means.

Now, through the advent of this spirit and power by the possession of Alaska on the north, with the Aleutian Islands in the center, and amicable arrangements not for possession—because we do not press upon others, and certainly not upon feeble nations to deprive them of their property—but with amicable relations of commerce and trade with the government of the Sandwich Islands, which cannot be long postponed, we have in our grasp the control of the Pacific Ocean, and may make this great theater of action for the future whatever we may choose it shall be. But it is indispensable that we shall possess these

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explorers, from natives, from Russians connected with the government there, and from Americans—confirmation of these deposits they found there. It was exactly the same evidences of the existence of these mineral deposits that were seen fifteen or twenty years ago in California, and later still in British Columbia.

CADWALADER C. WASHBURN [Wis.].—If the gentleman has any authority to show that there are precious metals of any kind in Alaska I beg he will refer me to the document and page where I can find it.

GEN. BANKS.—There is no authority which will convince the gentleman from Wisconsin [Mr. Washburn]. If he could lay his hand on the print in the side he would not believe.

Mark Whiteman found the precious metals himself, and brought them away with him; among others, platina in large quantities, the nature and value of which he did not understand until the specimens which he brought home were analyzed in California.

Many beds of bituminous coal have been discovered on the coast and in the Aleutian Islands. The Russian steamers have long taken coal from the mines of Kodiak, which can furnish it for future commerce for many years yet.

We have received within a few days a carefully prepared and elaborate statement of Professor Davidson, whose opinions cannot be discredited, who says that in this territory is to be found the purest and the best coal upon the Pacific coast.

Pure copper is found in large cubic masses. Copper plates, hammered out by the natives, and with hieroglyphics engraved upon them, the history of their tribes and families, have been found. Silver is also found in many places; also quartz, with sulphate of iron and lead.

There is no doubt whatever about the existence of large quantities of gold on the Stikine river, and also on other streams washing down from the mountains which extend through the whole of this territory.

GEORGE F. MILLER [Pa.].—I desire to ask the gentleman from Massachusetts to explain what quantity of the land embraced in this purchase is susceptible of cultivation.

GEN. BANKS.—The territory between the forty-fifth and sixtieth parallels of north latitude, west of the Rocky Mountains, on the Pacific coast, embraces three hundred thousand square miles of cultivable, arable land, according to the statement of the land commissioner, based upon the authority of Mr. Blodgett, the climatologist, a gentleman of Pennsylvania, whose character

is perfectly well known and highly appreciated in this country. There are three hundred thousand square miles of cultivable and arable land between the forty-fifth and sixtieth parallels, the greater portion of which is in Russian America—that part between the forty-fifth and fifty-fourth degrees above Vancouver's Island to the Russian possessions, west of the mountains, being narrow and unimportant—according to Mr. Blodgett's statement. The Commissioner of Public Lands says there are twelve million eight hundred thousand acres—twenty thousand square miles—of land which can be brought into cultivation by actual settlers under the present land system of the United States.

The correspondents of the *Alta Californian* and *Journal* say there are twenty thousand square miles of cultivable and arable lands in the vicinity of Cook's inlet, which they call the garden of Alaska. There is more arable land in Alaska, according to the official statement of the land office, than there was estimated to be in California when we purchased that country from Mexico.

The testimony of newspaper correspondents and of our own officers and scientific men shows that in many portions of this territory herds-grass, of excellent quality, grows wild without care or culture; white and burr clover are found there; cattle are fat, and beef tender and delicate; oats and barley thrive like native grasses; peas grow at Onalaska in latitude 64°; turnips, potatoes, carrots, beets, cabbages, and other root crops are the main support of the people. Winter gooseberries, blackberries, cranberries, raspberries, huckleberries, and thimbleberries are abundant. The rose, poppy, marigold, astrea, and holly-hock grow in perfection in the gardens of the officers at Sitka. Plants are found in the Arctic regions which belong to a temperate climate. Poisonous plants are few and not virulent, and reptiles, toads, and lizards are never seen.

This is the character of the country in its agricultural aspect. It is covered with gigantic pine forests, with the exception of a strip of land upon the northern coast opposite Behring Strait. Trees measure between three and six feet.

The timber of Alaska consists of white fir, spruce fir, white and yellow pine, cedar and hemlock, alder, some oak, and a few other species of timber of which we know little. The Alaska cedar for ship-building is the best in the world. An imperial commission of the French Government sitting at Toulon in 1860 reported that masts and spars from Vancouver's Island are superior to those from Riga. The timber of Alaska is of the

the fisheries of the northwestern coast of North America. Now, here are two hundred and forty thousand square miles of fishing grounds, which will give occupation to at least one hundred and twenty thousand men in the cod and halibut fisheries alone. The fisheries of the United States return every year a product of \$34,000,000, four-fifths of which is from the whale and cod fishing. Of that we obtain our share now from the eighty-four thousand square miles of the fisheries of the northeast coast of America, sharing its wealth with England and France, who have by far the best opportunities, to whose fishing grounds we are admitted only upon the payment of onerous tonnage taxes. By this purchase we treble the extent of the fisheries of which we have exclusive possession, and of course we obtain a corresponding increase of employment and product.

I come now to a question of practical importance. What is the value of these things to us? They add to the industrial product of the country, from native industries alone, employment for fishermen, lumbermen, miners, colliers, mariners, ship-builders, trappers, hunters, farmers, ice-cutters, and traders. From the native industries of this possession, carrying nothing there but men, we will find, when the resources of the territory are fully developed, employment for two hundred and fifty thousand persons. A quarter of a million of people will be engaged in peaceful, honorable, profitable, national, native industries in this territory alone. And, allowing each man to represent a family of four persons, it will furnish a support for a population of a million souls.

Who is interested in this purchase? The Pacific States. Will you say to them that it is worthless; that we do not want it; that the Government has no right to acquire it? They know better. They know that the possession of this territory is hereafter identified with the prosperity of this Government and the development and increase of our industry. California proved herself a fast and important friend of this Government in our hour of trial. She gave the whole Pacific coast to the cause of liberty and union, and to us, through the Providence of God, the victory. She asks now the extension of our interests on the Pacific coast. With what grace can the East deny her request? With what justice can the Mississippi valley, that was acquired by a similar treaty, deny to California a favor which, while it strengthens her interests, enlarges, consolidates, and extends those of the whole country?

At every step from 1780 up to this hour Russia has been our friend. In the darkest hour of our peril, when France

same quality as that of Vancouver's Island. The hemlock will be used for tanning hides, which are abundant in Siberia, and the alder is extensively used in curing fish.

Gentlemen tell us, although this timber may exist in quantities and of the excellent character described, it is of no use, because we have enough elsewhere. They forget that the world changes. Everywhere we see evidences that this continent is being rapidly stripped of its forests, which once covered it as they now cover Alaska.

At any rate, we cannot have too much timber. What is the market for the timber of the Pacific coast? It is, in the first place, Russia, China, Japan, India, Australia, California, Mexico, South America, all the countries that line the coasts of the Pacific Ocean. We send it also to the Atlantic side of South America, and even into the Gulf of Mexico on that side. The unsurpassed masts and spars of the Pacific coast are sent to every port in every part of the world. Who is here to say that we have too much of this property, or that it is a crime to increase our supply?

Let me come now to the matter of the fisheries. When the committee were considering the matter of the fisheries, a statement from the officers of the Coast Survey relating to the quantity of fish found in these bays and rivers was presented, and it was so extravagant that gentlemen of the committee thought it would be better to omit it in the report.

Mr. Chairman, there is in no part of the world, except on a small scale in the fjords of Norway, anything like the arrangement of the bays and rivers and islands on the Alaska coast. Here is an ocean covering a hundred million square miles that has never been fished so far as we know. When we consider the vast multitude of fish that the Pacific Ocean must contain we can very well believe that when storms drive them into these bays they are as numerous as they are represented to be. It is not a matter of fancy, but a matter of fact. The Indians from all portions of Alaska go down to the coast when, from indications which they get from the flight of birds, whose flocks darken the heavens, that the fish are coming in schools upon the coast, and lay in their supply for the year. These waters abound in whale, cod, halibut, salmon, and all the varieties of fish that inhabit the cold waters. The whale has abandoned the seas of the northeast coast and is pursued to seas adjacent to Alaska, twenty thousand miles from whence he is followed into the Arctic Ocean. The superintendent of the Bureau of Statistics informs me that there are sixty thousand men engaged every year in

and England were contemplating the recognition of the rebel confederacy, the whole world was thrilled by the appearance in San Francisco of a Russian fleet, and nearly at the same time, whether by accident or design, a second Russian fleet appeared in the harbor of New York. Who knew how many more there were on the voyage here? From that hour, France on one hand and England on the other recoiled, and the American Government regained its position and power.

Now, shall we flout the Russian Government in every court of Europe for her friendship? Having sought from her for twenty-five years the fisheries of the northwest coast, and having received from her not only the incident of the fisheries but the substance of the territorial possession incident to the fisheries, shall we do what never before has been done, refuse to execute the treaty she has made at our solicitation with our own Government, upon the conditions and according to the letter of our own Constitution? I do not believe it. Whoever of the Representatives of the American people in this House on this question turns his back not only upon his duty, but upon the friends of his country, upon the Constitution of his Government, the honor of his generation, cannot long remain in power.

There is one precedent we must dismiss from memory before we can do that. We must erase from our history the glorious incident of Jackson's administration, when he compelled France to pay under a treaty contracted with us, and when France answered, as we are now urged to answer, that the appropriation of money was another matter. Although she was the best friend we had, yet Jackson asserted he would compel the execution of the treaty at the hazard of war. Gentlemen cannot make a distinction between that case and the one now presented. If we do refuse to appropriate this money, when we owe another government under treaty stipulations, it will be a greater dishonor than our country yet has known.

Mr. Washburn replied to General Banks on the following day (July 1).

If gentlemen will come down from the region of the clouds to which they were transported by the honorable gentleman, and from those realms of fancy and imagination in which he revealed, to plain matters of every-day fact, I shall not despair of doing something yet to protect the rights of my constituents and of the people of this country.

Gentlemen could not fail to observe all through the speech

made by the gentleman on yesterday the extreme lack of authorities to sustain his statements, and the great preponderance, instead, of spread-eagle oratory. Sir, I shall enter into no contest with the gentleman in the eagle business; I resign that to him altogether. But I shall ask those members who have not arrived at the sublime position of the gentleman from Massachusetts, who declared "that he did not rely on human testimony, that he was above it"—I shall ask those gentleman who do care for such testimony to listen while I unfold the facts that surround this most extraordinary case.

I shall attempt to demonstrate five propositions, and if I shall succeed in doing so I think I may claim the judgment of this committee and of the House. Those propositions are:

1. That at the time this treaty was negotiated not a soul in the whole United States asked for it.
2. That it was secretly negotiated and in a manner to prevent the representatives of the people from being heard.
3. That by existing treaties we possessed every right that is of any value to us without the responsibility and never-ending expense of governing a nation of savages.
4. That the country is absolutely without value.
5. That it is the right and duty of the House to inquire into the treaty, and vote or not vote the money according to its best judgment.

My first proposition is that on the 30th day of March, 1867, the day on which this treaty was signed, there was not a man in the whole length and breadth of the United States who had ever conceived the idea that this territory of Alaska was a valuable territory for the United States to possess; not even the gentleman from Massachusetts, though he now declares it to be absolutely necessary to the very safety and existence of this nation. Even on the Pacific coast, which is now said to be clamorous for it, no such idea had entered the brain of any man there.

As to the gentleman's point that we are in honor bound to appropriate money to execute treaties, I would say that, although the House has never refused to appropriate money to carry out treaties, it has, nevertheless, asserted its right to do so, and the point has never been yielded; and when money has been voted to execute treaties it has always been on the ground that the House approved them, and not because it was believed that they were under any obligation to do so.

On this point I invite attention to the opinion of Judge John McLean, of the Supreme Court of the United States. The

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treaty of Paris, negotiated in 1831. But that case is in no sense parallel to the one under consideration. There the claim of this Government existed long before the treaty was negotiated. The treaty merely liquidated the amount which France was to pay. Our right to the money was perfect and complete before the treaty was made, and a refusal to pay it was as much a cause of war before the treaty as afterward; and had there been no treaty liquidating the amount, the right to demand payment would still have existed, and, if need be, to use force to compel it.

Every intelligent man must see that if we had an existing treaty with Russia that gave us the right to trade on that coast, the right to fish on that coast, the right to land and cure fish on the coast, and the right to visit the interior waters and trade with the natives, we had virtually everything that is desirable, and that there could be no excuse for this treaty. Neither the chairman of the committee nor any other gentleman will dispute that if we could have those privileges it would be better for us to have them without the responsibility and never-ending expense of ruling and governing a nation of savages. Now the gentleman from Massachusetts undertakes to say that we had no such treaty rights. As these things are denied, it is made my duty to prove them.

In 1832 a treaty was negotiated with Russia, the negotiators being Hon. James Buchanan on the part of the United States and Count Nesselrode on the part of Russia. That treaty gave us the rights I have mentioned, and was of full force and effect at the time of the negotiation of the late treaty for the purchase of Russian America.

The gentleman says that this treaty was abrogated. I take issue with him. This treaty having been in existence ten years, that provision of it in article four, which allowed our people to go inland into the harbors and bays and rivers to trade with the natives, was abrogated, and the reason assigned was that our people went there not for the purpose of legitimate trade, but for the purpose of selling whiskey and firearms to the Indians; and that provision was therefore abrogated after a long conference and correspondence between the State Department, through Mr. Forsyth, and the Russian Government. Mr. Forsyth maintained always, and never yielded the point, that under the first article of the treaty we had the right of landing on the coast, but not to visit the interior bays, and that right was not and could not be terminated.

This treaty of which I speak—the treaty of 1832—has never

case of *Turner vs. American Baptist Missionary Union* (5 McLean, 344) decides as follows:

"A treaty is the supreme law of the land only when the treaty-making power can carry it into effect.

"A treaty which stipulates for the payment of money undertakes to do that which the treaty-making power cannot do; therefore the treaty is not the supreme law of the land.

"To give it the effect the action of Congress is necessary. And in this action the Representatives and Senators act on their own judgment and responsibility, and not on the judgment and responsibility of the treaty-making power.

"A foreign government may be presumed to know the power of appropriating money belongs to Congress.

"No act of any part of the Government can be held to be a law which has not all the sanctions to make it law."

But it is said that Russia has given us possession, and for that reason we should vote the money. Quite otherwise. Why was possession taken by the Executive of this Government and yielded by Russia before the money was paid or even voted? No interest of this Government was suffering for the want of immediate possession, and it is believed that no benefit could arise to this Government from having possession before the time stipulated for the payment of the money. The same may be said in regard to Russia, unless the country was so worthless that every day she held possession was a positive damage to her, and for that reason she was in haste to be rid of it. It requires no great stretch of imagination to divine the scarcely hidden causes which governed the parties negotiating this treaty in stipulating for immediate possession. They could hardly have failed to foresee that this treaty would be strongly opposed in this House, and that upon its merits it could have no chance for the necessary appropriation. An extraordinary pressure was seen to be necessary, and that pressure was sought for in giving and taking possession.

Will this House allow itself to be coerced by any such performance? To state the question is to answer it. But it is said that Russia, our best friend, will be offended if we fail to appropriate the money. I fully recognize the friendly character of the Russian Government in the past, and the importance of cultivating friendly relations in the future; but, for the reason stated, it is denied that any just ground of offence can exist if this House fails to sanction the treaty. It is maintained that the refusal to appropriate money to carry this treaty into execution would be cause of war on the part of Russia, and the action of President Jackson is cited, in the case of the refusal of France to pay the money stipulated to be paid in the

been abrogated, and never can be abrogated until a certain notice has been given, which never has been yet given. It is a good and valid treaty to-day; and under that treaty we are entitled to all the rights which they have granted to Great Britain or to any other country, including the fishing rights granted to Great Britain in 1859.

Gentlemen who have looked into this matter will have discovered that when this treaty was first negotiated the proposition was to pay only \$7,000,000; that was the original agreement. But Mr. Seward insisted that it should be free from all incumbrances; and Mr. Stoeckl agreed to that, and then Mr. Seward said very mildly, without inquiring what those incumbrances were: "I will give you a couple of hundred thousand dollars in gold in addition if you will do so." Of course Mr. Stoeckl agreed to take the additional \$200,000 in coin.

Now, I will tell you what those incumbrances are, and which are not yet removed, and which cannot be removed. First, the treaty with Great Britain, which cannot be abrogated for ten years from 1859, and which gives them the right to navigate these rivers forever.

GENERAL BANKS.—It is not provided by that treaty that Great Britain shall have the right to navigate the rivers of Russian America forever. It provides that in relation to the rivers rising in British Columbia and passing through this portion of Russian America in front of British Columbia the right of navigation shall be secured to Great Britain. It is a right which covers the Stikine only, and it is a right which this country has claimed from its very foundation; that where a river takes its rise in one country and passes through another country the people of the country where the river took its rise have the right to follow the river to its mouth.

MR. WASHBURN.—This provision does not apply to the Stikine river only. Every river of any importance in Alaska rises in British America, and the British people have the right to navigate those rivers forever. By that same treaty Sitka is guaranteed to Great Britain as a free port for the term of ten years. It is a free port to-day for the Government of Great Britain. Does the gentleman deny it? Yet here he asks us to pay \$7,200,000 in gold for this territory before these incumbrances are removed.

GENERAL BANKS.—The ten years will have expired next year.

MR. WASHBURN.—Very well; when the incumbrance is removed it will be time enough to talk about paying this money

for it. And how do you propose to remove the incumbrances on the rivers which are made free to Great Britain forever? The sailors, traders, and fishermen of Great Britain have the right to-day to go into all the interior waters of Alaska under this treaty; just the same right that our people have. Great Britain to-day has the same right on the coast of Alaska that we have, except the miserable privilege of governing the fifty, sixty, or seventy thousand wretched savages there. And yet the gentleman comes in here and coolly asks us to vote \$7,200,000 in gold for this territory.

Now, sir, this treaty was negotiated in secret. I say it was negotiated in such a manner that the representatives of the people might not know of it, as it was justly feared they would protest against it. The negotiation was carried on here while we were in session in March, 1867. Mr. Stoeckl, on the 25th of March, 1867, said to Mr. Seward that he would accept his proposition. The trade was closed between them, but they kept it a profound secret until our adjournment. Why? This House adjourned on the 30th of March, 1867, at twelve o'clock. On the same day was signed this treaty in Washington. I believe that signatures were withheld until after our adjournment that no remonstrance could be heard from the representatives of the people.

I wish I had time to answer every proposition of the gentleman from Massachusetts at length; but I cannot follow him in his flights of fancy. He pictured Alaska as the finest country upon the face of the earth. He declared solemnly there was no country on the face of God's earth which could support as many industries as Alaska. He said it would support one million people in more industries than any other country. He told us it was a magnificent agricultural country. If gentlemen would like through the eye to have an idea of this territory, of Alaska, they can look upon a photograph of Sitka which I have here, the most favorable place upon the coast. [Here Mr. Washburn held up a large photograph.] They have established themselves on various places, but had finally to give them up and confine themselves to Sitka. We have testimony that there are not a dozen acres of arable land in the neighborhood of Sitka, yet we are told by the Commissioner of the General Land Office that there are twelve million acres of arable land in Alaska. He has no information of his own, and yet he undertakes to instruct us and make statements that have no foundation whatever. He has written a letter containing an "infinite deal of nothing." He has no authority for anything

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not act entirely upon his own judgment when he bought this territory. I believe the fact to be that when he conceived the idea of purchasing it he telegraphed to General Halleck, at San Francisco, to inquire of him how much it would do to pay for Alaska, and General Halleck replied that it would answer to pay from five to ten million dollars. Mr. Seward thought it would not be quite right to offer the smallest sum; so he split the difference and offered \$7,000,000.

The treaty having been negotiated, it became necessary to get it through the Senate; and the first piece of machinery is a telegram from General Halleck, as follows:

SAN FRANCISCO, CALIFORNIA, April 4, 1867.

HON. EDWIN M. STANTON, Secretary of War:

I learn from a gentleman who has recently visited many parts of Russian America that its value is greater than has been supposed. The rejection of the treaty will cause great dissatisfaction on this coast, especially in California.

H. W. HALLECK, Major General.

This dispatch was instantly made public here to operate on the Senate. It will be observed that he says that its rejection would cause great dissatisfaction in California. How could he know that? No man in California or Washington not behind the scenes knew that any such scheme was on foot on the 4th day of April, the date of his dispatch. Now, sir, there is no evidence produced that any desire for this acquisition existed on the Pacific coast, either at the time the treaty was negotiated or now. A leading Republican paper of California, one of the ablest, if not the ablest, in the State, the *Sacramento Union*, as late as November last speaks of the treaty in very contemptuous terms, calls Alaska a *terra incognita*, and says: "That persons well informed as to Alaska are ungrateful enough to hint that we could have bought a much superior elephant in Siam or Bombay for one hundredth part of the money, with not a ten thousandth part of the expense incurred in keeping the animal in proper condition."

After the treaty was negotiated Captain Howard, of the revenue service, was sent up to explore Alaska. He was told to look for fishing banks, for coal, and for precious metals. I have his report here.

In regard to minerals, the geologist of the expedition, Mr. Blake, says that "exaggerated ideas have been formed of the mineral wealth of Alaska." None of these gentlemen succeeded in finding mineral wealth of any kind there, although they were constantly in pursuit of it.

he says. There is not one grain of wheat in this bushel of chaff. He talks of deposits of gold. I defy any living man upon the face of the earth to produce any evidence that an ounce of gold was ever extracted from the territory of Alaska.

My friend from Massachusetts gets up here and tells us there are over twelve million acres of arable land in Alaska, and that it is capable of sustaining a thrifty and happy population of over one million freemen. Now, sir, without resorting to that kind of testimony that he has brought in, I have official documents from St. Petersburg of a date no longer ago than August last. Mr. Seward, dear soul, in his simplicity of heart, wrote to Cassius M. Clay, Minister to Russia, to ascertain what system of disposing of lands prevailed in Alaska. Well, Mr. Clay submitted that letter to the Russian Cabinet, and I think I see them reading it, and they must have had a very jolly time of it at the expense of the Secretary of State. Here is the answer they gave:

"The native population of each separate island is so insignificant that the inhabitants of any one could not meet with the slightest cause of collision of interest in the use of lands; in addition to this, the soil itself being perfectly barren and unfit either for agricultural or grazing purposes, there was no reason why the natives should endeavor to extend the limits of their lands."

"There was even less ground for the enactment of any particular regulations in view of immigrant settlers. Who can ever have a mind to settle in that country, where permanent fogs and dampness of atmosphere and want of solar heat and light, leaving out of the question anything like agriculture, make it impossible to provide even a sufficient supply of hay for cattle, and where man, from want of bread, salt, and meat, to escape scurvy must constantly live upon fish, berries, shell-fish, sea-cabbages, and other products of the sea, soaking them profusely with the grease of sea beasts. The Aleutian Islands may attract transient traders, but no permanent settlers; to inhabit them one must be an Aleute; and, if it were not for the sea surrounding the islands, this country, owing to its unfavorable climatic conditions and the sterility of its ground, would have never been inhabited at all."

This is the paradise which we heard depicted in such eloquent terms yesterday, and I was almost led to believe that the generally received account we have that the Garden of Eden was on the green banks of the Euphrates was a mistake, and that the paradise of our first parents was really on "Oonalaska's shore."

But, sir, I desire to call the attention of the committee to the influences that have been brought to bear to induce this House to vote this appropriation. It dates back to the time when the treaty was first negotiated. I believe I state nothing more than the fact when I say that the Secretary of State did

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Exaggerated reports in regard to this country in reference to its furs have been circulated. Mr. Wilson, in his letter, says that the value of the fur seals alone is over half a million annually.

Now, I assert—and I have the facts and figures to prove it—that the fur trade is becoming rapidly exhausted, and that the total value of all the furs gathered in Alaska is considerably less than two hundred thousand dollars a year, and is diminishing from year to year with great rapidity.

Mr. Bulkeley, who says that the seal fisheries alone could be made to pay for Alaska, admits himself that unless the seal fisheries are protected as the Russians protected them they will not last any length of time. And Professor Davidson says that with the utmost care on the part of the Russian authorities the furs and fur-bearing animals have rapidly diminished from year to year. With the transfer to this Government, and the consequent invasion of the country by our people, it can safely be said that the fur trade will soon cease to exist. Under the Russian system they only captured about thirty-three thousand seals a year, which, at three dollars a piece, their highest value, is \$99,000; and yet we are told that the seal trade will pay for the whole purchase. Now, if under the Russian system they received less than \$100,000 a year for the fur seals captured, how long would it take to pay off this debt of \$7,200,000? It is a good deal like the sum that used to be in the arithmetic about the frog at the bottom of the well jumping up two feet and falling back three feet each day, and about the time that the frog would get to the surface you would pay off this debt from the fur seal trade.

In regard to salmon, we read of such immense numbers up those streams that they are driven up on the shores, forming winrows three feet in depth, and that they sell for seven cents a pound in gold, and we are also informed that the bears come down from the mountains to feed upon them, their dainty appetites selecting only the heads, rejecting the other parts of the salmon altogether. This is told in the report of the majority of the committee, and we are gravely asked to believe it, and the gentleman from Massachusetts has stated substantially the same in his speech, and gave us the philosophy of it. Wilson, the philosopher, must look to his laurels.

Now, Mr. Chairman, I have no doubt that there are many salmon in the rivers of Alaska. That is also the case in regard to the rivers of Washington Territory and Oregon. Inexhaustible numbers of salmon annually visit the rivers, sounds, and

bays of our western coast, and we have now no occasion, and will have no occasion for a hundred years to come, to visit the rivers of Alaska for salmon.

The gentleman from Massachusetts also quotes the testimony of Captain Bryant, who says that Behring Sea is an immense reservoir for codfish. Yet Colonel Bulkley, of the telegraphic expedition, whom my friend from Massachusetts says is good authority, says there are few or no codfish in Behring Sea, and he, too, gives the "philosophy" why codfish do not exist up in that sea.

There is one other subject that I ought to speak of, and that is the timber of this region. I will only say that it does not exist to any extent on the Aleutian Islands, nor north of Cook's inlet, and that what there is on the inaccessible mountains that skirt the coast south of Mount St. Elias, and along a strip of country but thirty miles wide.

Now I think, Mr. Chairman, I have pretty clearly demonstrated the utter worthlessness of this Alaska territory. You are not simply asked to appropriate \$7,200,000 in gold for a worthless country—if we could get off with that I might, perhaps, be content to submit to it—but with this \$7,200,000 come the annual expenses of this territory, in my judgment amounting to several million dollars a year, with no corresponding return.

You will recollect, Mr. Chairman, that I called attention to the agency of a gallant general on the Pacific coast in forcing this purchase upon the country. I will now read from a letter of his of May 22, 1867, to the Adjutant-General of the army, in which he gives his opinion as to how much this country will cost us. After we had acquired it he began to see its true character. He says:

"This country and the adjacent British territory contain a very large Indian population, some of whose tribes are warlike, and of a character far superior to those of Oregon, California, Nevada, and adjacent countries. Should our Indian system, with its treaties, annuities, agents, frauds, and speculations, be introduced there, Indian wars must inevitably follow, and instead of a few companies for its military occupation as many regiments will be called for, with the resulting expenditure of many million dollars every year."

Such are the kind of inhabitants you acquire with Alaska. It is said this is only a little sum; only \$7,200,000. Yes, sir; it is only \$7,200,000. But let me tell gentlemen that if they pass this appropriation it will be but a few days before you

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He maintained that it was in evidence before the House officially "that for ten years the entire product of the whole country of Alaska did not exceed three million dollars."

John A. Peters (Maine) pronounced the territory "intrinsically valueless, the conclusive proof of which is found in the fact that Russia is willing to sell it." He criticised the action of the Senate in negotiating the treaty.

"If the treaty-making power can buy, they can sell. If they can buy land with money, they can buy money with land. If they can buy a part of a country, they can buy the whole of a country. If they can sell a part of our country, they can sell the whole of it!"

Rufus P. Spalding (Ohio) on the other hand maintained that "notwithstanding all the sneers that have been cast on Alaska, if it could be sold again, individuals would take it off our hands and pay us two or three millions for the bargain."¹

General Robert C. Schenck (Ohio) thought the purchase in itself highly objectionable, but was "willing to vote the money because the treaty had been made with a friendly power; one of those that stood by us, almost the only one that stood by us when all the rest of the powers of the world seemed to be turning away from us in our recent troubles."

Thaddeus Stevens (Pennsylvania) supported the measure on the ground that it was a valuable acquisition to the wealth and power of the country. He argued also in favor of the right of the Senate to make the treaty.

Leonard Myers (Pennsylvania) was sure that if we did not acquire Alaska it would be transferred to Great Britain.

"The nation which struggled so hard for Vancouver and her present Pacific boundary, and which still insists on having the little island of San Juan, will never let such an opportunity slip. Canada, as matters now stand, would become ours some

¹ Indeed, one proposition to this effect was formally presented to Congress.

will hear of the ratification by the Senate of the treaty for the purchase of St. Thomas; and if the doctrine of my friend from Massachusetts [Mr. Banks] obtains here, you cannot avoid paying \$7,500,000 more for the purchase of St. Thomas. Now, the gentleman will not say that St. Thomas is not as valuable a purchase as Alaska. If we pay for Alaska we shall pay for St. Thomas.

But are we to stop with the purchase of Alaska and St. Thomas? No, sir. I believe a treaty is now being negotiated with Denmark for the purchase of Greenland and Iceland. [Laughter.] Well, gentlemen, laugh at it. I tell gentlemen who go for Alaska that Greenland to-day is a better purchase. And the man who votes for Alaska must vote for Greenland or he will be an inconsistent man. This is not mere loose talk. I have had placed upon my table since I began to speak to-day some pages of a document now printing at the Government Printing Office for the State Department, which shows that the purchase of Greenland is in contemplation.

Men talk about "manifest destiny," and assure us that we are destined to absorb this entire continent, and the idea seems so grand that no one feels inclined to count the cost or inquire into consequences. When that day comes we shall cease to be the "United States," but "States dissevered, discordant, belligerent." Sir, I will be no party to the inauguration of this policy you now propose, of acquiring remote and worthless possessions at the expense of my constituents, and to them I appeal for my justification.

Other speeches upon the Alaska Purchase are thus summarized by Mr. Blaine in his "Twenty Years of Congress":

General Benjamin F. Butler (Massachusetts) sustained Mr. Washburn's position in a characteristic speech, especially answering General Banks' argument that we should pay this amount from a spirit of friendship for Russia.

"If we are to pay this price as usury on the friendship of Russia, we are paying for it very dear indeed. If we are to pay for her friendship, I desire to give her the seven million two hundred thousand dollars in cash, and let her keep Alaska, because I think it may be a small sum to give for the friendship if we could only get rid of the land, or rather the ice, which we are to get by paying for it."

day could her people learn to be Americans; but never if England secures Alaska."

William Higby (California) answered the objections relating to climate.

"I do not know whether the people of the East yet believe what has been so often declared, that our winters on the Pacific are nearly as mild as our summers, and yet such is the fact."

Samuel Shellabarger (Ohio) opposed the purchase. He said those nations which had been compact and solid had been the most enduring, while those which had the most extended territory lasted the least space of time.

Hiram Price (Iowa) thought that it was "far better to expend the \$7,200,000 in improving the Mississippi river, in order that bread-stuffs may be transported cheaply from the West to the seaboard." He had no faith in the value of the territory proposed to be purchased.

Dennis McCarthy (New York) rejected the plea that we should purchase Alaska because Russia is a friendly power.

"I ask this House whence this friendship comes. It comes from self-interest. She is the absorbing power of the eastern continent, and she recognizes us as the absorbing power of the western continent; and through friendship for us she desires to override and overbalance the governments of Europe which are between her and us."

General Butler moved a proviso, that:

"The payment of \$500,000 of said appropriation be withheld until the imperial government of Russia shall signify its willingness to refer to an impartial tribunal all such claims by American citizens against the imperial government as have been investigated by the State Department of the United States and declared to be just, and the amounts so awarded to be paid from said \$500,000 so withheld."

General James A. Garfield, presiding at the time over the Committee of the Whole, ruled it out of order, and

on an appeal being taken the decision was sustained by 93 ayes and 27 nays. After dilatory motions and the offer of various amendments which were rejected the bill was passed on July 14 by 113 ayes and 43 nays.

The House prefaced the bill by a preamble, asserting in effect that "the subjects embraced in the treaty are among those which by the Constitution are submitted to the power of Congress, and over which Congress has jurisdiction, and for these reasons it is necessary that the consent of Congress should be given to the said stipulations before the same can have full force and effect." There was no mention of the Senate's ratification, merely a reference to the fact that "the President has entered into a treaty with the Emperor of Russia, and has agreed to pay him the sum of seven million, two hundred thousand dollars in coin." The House by this preamble evidently claimed that its consent to the treaty was just as essential as the consent of the Senate—that it was, in short, a subject for the consideration of Congress.

The Senate was unwilling to admit such a pretension, especially when put forth by the House in this bald form, and therefore rejected the bill unanimously. The matter was sent to conference, and by changing the preamble a compromise was promptly effected, which preserved the rank and dignity of both branches. It declared that "whereas the President had entered into a treaty with the Emperor of Russia, and the Senate thereafter gave its advice and consent to said treaty, . . . and whereas said stipulations cannot be carried into full force and effect, except by legislation to which the consent of both Houses of Congress is necessary; therefore be it enacted that there be appropriated the sum of \$7,200,000" for the purpose named. With this compromise the bill was readily passed and became a law by the President's approval July 27, 1868.

The preamble finally agreed upon, says Mr. Blaine, though falling far short of the one first adopted by the House, was yet regarded as a victory for that branch. The issue between the Senate and the House, now adjusted by a compromise, was an old one, agitated at

different periods ever since the controversy over the Jay treaty in 1794-95. It is simply whether the House is bound to vote for an appropriation to carry out a treaty constitutionally made by the President and the Senate without judging for itself whether, on the merits of the treaty, the appropriation should be made.

CHAPTER XV

THE ALABAMA CLAIMS

Depredations by the *Alabama* and Other Confederate Privateers on Northern Commerce—Great Britain's Complicity in the Matter—Her Early Refusal to Grant Redress—Johnson-Clarendon Treaty: Senator Charles Sumner [Mass.] Opposes Its Confirmation; It Is Rejected—Negotiations Reopened by Great Britain—Treaty of Washington Submits the *Alabama* and Other Disputes with Great Britain to Arbitration—*Alabama* Arbitrators Find in Favor of the United States—Minor British Claims Allowed—Canadian Boundary Dispute Settled in Favor of the United States.

THE Declaration of Paris, adopted by the chief European nations, including Great Britain, in 1856, abolished privateering. The Confederate Government, however, adopted the practice as one of its first acts, and a number of privateers set out from Southern ports to harass the commerce of the North. Meanwhile Queen Victoria had issued a proclamation of neutrality in the American war, according belligerent rights to both contestants, and forbidding her subjects to equip or aid vessels of either party. Notwithstanding this, harbors such as Nassau in the British West Indies became the refuge of Confederate cruisers—privateers no less than blockade runners.

Against this practice Charles Francis Adams, the American minister to Great Britain, made firm and frequent protests which were not heeded.

The Confederate privateer *Alabama* was the most notorious offender against the Declaration of Paris. She was built at Birkenhead, England, ostensibly for the use of British subjects, but under circumstances which indicated that this purpose was a subterfuge, and that, so soon as she was on the high seas, she would be turned over to Confederates for privateering purpose. While

she was building Minister Adams repeatedly protested to the British Government that this was the purpose, and, after delaying until she was ready to sail, the Government took feeble measures to detain her. These were evaded by the vessel, known simply as "No. 290," sailing without registry or clearance on July 29, 1862. She took on her equipment from two English vessels in the Azores, assumed the name *Alabama*, and, under command of Raphael Semmes, began her career of depredation on United States commerce. She had destroyed seventy United States vessels, before her own destruction on June 19, 1864, near Cherbourg, France, by the United States war vessel, the *Kearsarge*, John A. Winslow, commander. Captain Semmes escaped on a private English yacht.

In similar manner other Confederate privateers such as the *Florida*, *Georgia* and *Shenandoah* were aided by British subjects, and in this escaped the attention of British officials. These, too, committed many depredations on United States commerce, the total direct damage of all the cruisers being enormous. The secondary damage arising from the decrease of American shipping for fear of loss and from high insurance rates was incalculable. These losses greatly increased the strength of the contention of the Peace party in the North that the war should be stopped before the commerce and industry of the country were irreparably injured. Thereby Mr. Lincoln's Government was greatly impeded in the prosecution of the war.

At the close of the war in 1865 Minister Adams proposed to Lord John Russell, the British foreign secretary under Lord Palmerston, premier (whom Russell succeeded in the same year as premier), that the matter be submitted to friendly arbitration. This proposal was flatly refused. Thereupon William H. Seward, the United States Secretary of State, notified the British Government that no further efforts for arbitration would be made. In August, 1866, he submitted to the British Government a list of individual claims for damages inflicted by the *Alabama*. Mr. Stanley, who had succeeded to the office of British foreign secretary under the ad-

ministration of his father, the Earl of Derby, who had followed Russell, decisively declined to receive the claims. The Earl of Derby died in 1868 and was succeeded by Benjamin Disraeli, later Earl of Beaconsfield.

In May, 1868, Minister Adams retired from his mission, and in June, 1868, Reverdy Johnson succeeded him. Before he could reopen negotiations on the Alabama claims Disraeli was succeeded by William E. Gladstone, and Lord Stanley, in the Foreign Office, by the Earl of Clarendon.

With Lord Clarendon, Minister Johnson, with the approval of Secretary Seward, promptly agreed upon a treaty in the matter, which reached the United States in February, 1869. It was presented to the Senate, which acted upon it in executive (secret) session. Charles Sumner (Massachusetts), chairman of the Committee on Foreign Relations, opposed confirmation of the treaty in a speech in executive session on April 13, 1869. Later, after confirmation had been refused, the injunction of secrecy was removed by order of the Senate, and the speech was published in the *Congressional Globe*.

OUR CLAIMS ON ENGLAND

SENATOR SUMNER

I do not disguise the importance of this act; but I believe that, in the interest of peace, which every one should have at heart, the treaty must be rejected. A treaty which, instead of removing an existing grievance, leaves it for heart-burning and rancor, cannot be considered a settlement of pending questions between two nations. It may seem to settle them, but does not. It is nothing but a snare. And such is the character of the treaty now before us. The massive grievance under which our country suffered for years is left untouched; the painful sense of wrong planted in the national heart is allowed to remain. For all this there is not one word of regret or even of recognition; nor is there any semblance of compensation. It cannot be for the interest of either party that such a treaty should be ratified. It cannot promote the interest of the United States, for we naturally seek justice as the foundation of a good understanding with Great Britain; nor can it promote the in-

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The treaty not merely makes no provision for the determination of the great question, but it seems to provide expressly that it shall never hereafter be presented. The petty provision for individual claims, subject to a set-off from the individual claims of England, so that in the end our country may possibly receive nothing, is the consideration for this strange surrender. I borrow a term from an English statesman on another occasion, if I call it a "capitulation." For the settlement of a few individual claims we condone the original, far-reaching, and destructive wrong.

Whatever the treaty may say in terms, there is no settlement in fact, and, until this is made, there will be a constant menace of discord. Nor can it be forgotten that there is no recognition of the rule of international duty applicable to such cases. This, too, is left unsettled.

While doing so little for us the treaty makes ample provision for all known claims on the British side. As these are exclusively "individual" they are completely covered by the text, which has no limitations or exceptions. Already it is announced in England that even those of "confederate bondholders" are included. I have before me an English journal which describes the latter claims as founded on "immense quantities of cotton, worth at the time of their seizure nearly two shillings a pound, which were then in the legal possession of those bondholders"; and the same authority adds, "these claims will be brought, indifferently with others, before the designed joint commission whenever it shall sit." From another quarter I learn that these bondholders are "very sanguine of success under the treaty as it is worded, and certain it is that the loan went up from 0 to 10 as soon as it was ascertained that the treaty was signed." I doubt if the American people are ready just now to provide for any such claims. That they have risen in the markets is an argument against the treaty.

Passing from the treaty, I come now to consider briefly, but with proper precision, the true ground of complaint; and here again we shall see the constant inadequacy of the remedy now applied.

Here the speaker recalled British recognition of Confederate belligerency on the sea as well as on the land.

Ocean belligerency being a "fact," and not a "principle," can be recognized only on evidence showing its actual existence, according to the rule, first stated by Mr. Canning and afterward

terest of Great Britain, which must also seek a real settlement of all pending questions.

If we look at the negotiation, which immediately preceded the treaty, we find little to commend. You have it on your table. I think I am not mistaken when I say that it shows a haste which finds few precedents in diplomacy, but which is explained by the anxiety to reach a conclusion before the advent of a new Administration. Mr. Seward and Mr. Reverdy Johnson both unite in this unprecedented activity, using the Atlantic cable freely. I should not object to haste or to the freest use of the cable if the result were such as could be approved; but, considering the character of the transaction, and how completely the treaty conceals the main cause of offence, it seems as if the honorable negotiators were engaged in huddling something out of sight.

The treaty has for its model the Claims Convention of 1853. To take such a convention as a model was a strange mistake. This convention was for the settlement of outstanding claims of American citizens on Great Britain, and of British subjects on the United States, which had arisen since the treaty of Ghent in 1815. It concerned individuals only and not the nation. It was not in any respect political; nor was it to remove any sense of national wrong. To take such a convention as the model for a treaty, which was to determine a national grievance of transcendent importance in the relations of two countries, marked on the threshold an insensibility to the true nature of the difference to be settled. At once it belittled the work to be done.

An inspection of the treaty shows how from beginning to end it is merely for the settlement of individual claims on both sides, putting both batches on an equality—so that the sufferers by the misconduct of England may be counterbalanced by British blockade-runners.

The provisions of the treaty are for the trial of these cases. A commission is constituted, which is empowered to choose an arbitrator; but in the event of a failure to agree, the arbitrator shall be determined "by lot" out of two persons named by each side. Even if this aleatory proceeding were a proper device in the umpirage of private claims, it is strangely inconsistent with the solemnity which belongs to the present question. The moral sense is disturbed by such a process at any stage of the trial; nor is it satisfied by the subsequent provision for the selection of a sovereign or head of a friendly state as arbitrator.

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recognized by Earl Russell. But no such evidence was adduced; for it did not exist and never has existed.

Too much stress cannot be laid upon the rule that belligerency is a "fact" and not a "principle." It is, perhaps, the most important contribution to this discussion, and its original statement, on the occasion of the Greek revolution, does honor to its author, unquestionably the brightest genius ever directed to this subject. According to this rule, belligerency must be proved to exist, it must be shown. It cannot be imagined or divined or invented; it must exist as a "fact" within the knowledge of the world, or at least as a "fact" susceptible of proof. Nor can it be inferred on the ocean merely from its existence on the land. From the beginning, when God called the dry land earth and the gathering of the waters called He seas, the two have been separate, and the power over one has not necessarily implied power over the other. There is a dominion of the land and a dominion of the ocean. But, whatever power the rebels possessed on the land, they were always without power on the ocean. Admitting that they were belligerents on the land, they were never belligerents on the ocean:

The oak leviathans, whose huge ribs make
Their clay creator the vain title take
Of Lord of thee, and arbitrer of war;

these they never possessed. Such was the "fact" that must govern the present question. The rule, so simple, plain, and intelligible, as stated by Mr. Canning, is a decisive touchstone of the British concession, which, when brought to it, is found to be without support.

Unfriendly in the precipitancy with which it was launched, this concession was more unfriendly in substance. It was the first stage in the depredations on our commerce. Had it not been made no rebel ship could have been built in England. Every step in her building would have been piracy. Nor could any munitions of war have been furnished. The direct consequence of this concession was to place the rebels on an equality with ourselves in all British markets, whether of ships or munitions of war. As these were open to the national Government, so were they open to the rebels. The asserted neutrality between the two began by this tremendous concession when rebels, at one stroke, were transformed not only into belligerents, but into customers.

In attributing to that bad proclamation this peculiar influence I follow the authority of the law lords of England, who,

according to authentic report, announced that, without it, the fitting out of a ship in England to cruise against the United States would have been an act of piracy. That England became an "arsenal" for the rebels we know, but this could not have been unless the proclamation had prepared the way.

The only justification that I have heard for this extraordinary concession, which unleashed upon our country the furies of foreign war to commingle with the furies of rebellion at home, is that President Lincoln undertook to proclaim a *blockade* of the rebel ports. By the use of this word "blockade" the concession is vindicated. Had President Lincoln proclaimed a *closing* of the rebel ports, there could have been no such concession. This is a mere technicality. Lawyers might call it an *apex juris*; and yet on this sharp point England hangs her defence. It is sufficient that in a great case like the present, where the correlative duties of a friendly power are in question, an act fraught with such portentous evil cannot be vindicated on a technicality. In this debate there is no room for technicality on either side. We must look at the substance and find a reason in nothing short of overruling necessity. War cannot be justified merely on a technicality; nor can the concession of ocean belligerency to rebels without a port or prize court. Such a concession, like war itself, must be at the peril of the nation making it.

The British assumption, besides being offensive from mere technicality, is inconsistent with the proclamation of the President, taken as a whole, which, while appointing a blockade, is careful to reserve the rights of sovereignty, thus putting foreign powers on their guard against any premature concession. After declaring an existing insurrection in certain States, and the obstruction of the laws for the collection of the revenue, as the motive for action, the President invokes not only the law of nations but the "laws of the United States," and, in further assertion of the national sovereignty, declares rebel cruisers to be pirates. Clearly the proclamation must be taken as a whole and its different provisions so interpreted as to harmonize with each other. If they cannot stand together, then it is the "blockade" which must be modified by the national sovereignty and not the national sovereignty by the blockade. Such should have been the interpretation of a friendly power, especially when it is considered that there are numerous precedents of what the great German authority, Heffter, calls "pacific blockade," or blockade without concession of ocean belligerency, as, in the case of France, England and Russia against Turkey,

Here beyond all question was negligence, or, according to the language of Lord Brougham on another occasion, "crass negligence," making England justly responsible for all that ensued.

Lord Russell, while trying to vindicate his government and repelling the complaints of the United States, more than once admitted that the escape of the *Alabama* was a "scandal and a reproach," which, to my mind, is very like a confession. Language could not be stronger. Surely such an act cannot be blameless. If damages are ever awarded to a friendly power for injuries received it is difficult to see where they could be more strenuously claimed than in a case, which the First Minister of the offending power did not hesitate to characterize so strongly.

Here the speaker presented evidence showing the enlistment of a crew, many of the "royal navy reserve," with the express understanding that they were to engage in privateering against United States commerce.

The dedication of the ship to the rebel service, from the very laying of the keel and the organization of her voyage with England as her *naval base*, from which she drew munitions of war and men, made her departure as much a *hostile expedition* as if she had sailed forth from Her Majesty's dockyard. At a moment of profound peace between the United States and England there was a hostile expedition against the United States. It was in no just sense a commercial transaction, but an act of war.

The case is not yet complete. The *Alabama*, whose building was in defiance of law, international and municipal, whose escape was "a scandal and reproach," and whose enlistment of her crew was a fit sequel to the rest, after being supplied with an armament and with a rebel commander, entered upon her career of piracy. Mark, now, a new stage of complicity. Constantly the pirate ship was within reach of British cruisers, and, from time to time, within the shelter of British ports. For six days unmolested she enjoyed the pleasant hospitality of Kingston, in Jamaica, obtaining freely the coal and other supplies so necessary to her vocation. But no British cruiser, no British magistrate ever arrested the offending ship, whose voyage was a continuing "scandal and reproach" to the British government.

The excuse for this strange license is a curious technicality, as if a technicality could avail in this case at any stage. Bor-

1827; France against Mexico, 1837-39; France and Great Britain against the Argentine Republic, 1838-48; Russia against the Circassians, 1831-36, illustrated by the seizure of the *Vixen* so famous in diplomatic history (Hautefeuille, *Des Droits et des Devoirs des Neutres*). Cases like these led Heffter to lay down the rule that "blockade" does not necessarily constitute a *state of regular war* (*Droit International*, Secs. 112, 121), as was assumed by the British proclamation—even in the face of positive words by President Lincoln asserting the national sovereignty and appealing to the "laws of the United States." The existence of such cases was like a notice to the British government against the concession so rashly made. It was an all-sufficient warning, which this power disregarded.

So far as is now known, the whole case for England is made to stand on the use of the word "blockade" by President Lincoln. Had he used any other word the concession of belligerency would have been without justification, even such as is now imagined. It was this word which, with magical might, opened the gates to all those bountiful supplies by which hostile expeditions were equipped against the United States. It opened the gates of war. Most appalling is it to think that one little word, unconsciously used by a trusting President, could be caught up by a friendly power and made to play such a part.

I may add that there is one other word often invoked for apology. It is "neutrality," which, it is said, was proclaimed between two belligerents. Nothing could be fairer, always provided that the "neutrality" proclaimed did not begin with a concession to one party, without which this party would be powerless. Between two established nations, both independent, as between Russia and France, there may be neutrality; for the two are already equal in rights, and the proclamation would be precisely equal in its operation. But where one party is an established nation and the other is nothing but an odious combination of rebels, the proclamation is most unequal in operation; for it begins by a solemn investiture of rebels with all the rights of war, saying to them, as was once said to the youthful knight, "Rise; here is a sword; use it." To call such an investiture a proclamation of neutrality is a misnomer. It was a proclamation of equality between the national Government on the one side and rebels on the other, and no plausible word can obscure this distinctive character.

Here the speaker recounted the building and escape of the "pirate" ships.

rowing a phrase from that master of admiralty jurisprudence, Sir William Scott, it is said that the ship "deposited" her original sin at the conclusion of her voyage, so that afterward she was blameless. But the *Alabama* never concluded her voyage until she sank under the guns of the *Kearsarge*, because she never had a port of her own. She was no better than the *Flying Dutchman*, and so long as she sailed was liable for that original sin which had impregnated every plank with an indelible dye. No British cruiser could allow her to proceed, no British port could give her shelter without renewing the complicity of England.

Thus her depredations and burnings, making the ocean blaze, all proceeded from England, which, by three different acts, lighted the torch. To England must be traced also all the widespread consequences which ensued.

I take the case of the *Alabama* because it is the best known, and because the building, equipment, and escape of this ship were under circumstances most obnoxious to judgment; but it will not be forgotten that there were consort ships, built under the shelter of that fatal proclamation, issued in such an eclipse of just principles, and, like the ships it unloosed, "rigged with curses dark." One after the other ships were built; one after the other, they escaped on their errand; and, one after the other, they enjoyed the immunities of British ports. Audacity reached its height when iron-clad rams were built, and the perversity of the British government became still more conspicuous by its long refusal to arrest these destructive engines of war, destined to be employed against the United States. This protracted hesitation, where the consequences were so menacing, is a part of the case.

It is plain that the ships which were built under the safeguard of this ill-omened proclamation; which stole forth from the British shores and afterward enjoyed the immunities of British ports, were not only British in origin, but British in equipment, British in armament, and British in crews. They were British in every respect, except in their commanders, who were rebel, and one of these, as his ship was sinking, owed his safety to a British yacht, symbolizing the omnipresent support of England. British sympathies were active in their behalf. The cheers of a British passenger ship crossing the path of the *Alabama* encouraged the work of piracy, and the cheers of the House of Commons encouraged the builder of the *Alabama*, while he defended what he had done and exclaimed, in taunt to him who is now an illustrious member of the British Cabinet,

John Bright, that he "would rather be handed down to posterity as the builder of a dozen *Alabamas*" than be the author of the speeches of that gentleman "crying up" the institutions of the United States, which the builder of the *Alabama*, rising with his theme, denounced "as of no value whatever and as reducing the very name of liberty to an utter absurdity," while the cheers of the House of Commons echoed back his words.

There are two circumstances by which the whole case is aggravated. One is found in the date of the proclamation, which lifted the rebels to an equality with the national Government; opening to them everything that was open to us, whether shipyard, foundries, or manufactories; and giving to them a flag on the ocean coequal with the flag of the Union. This extraordinary manifesto was issued on the day before the arrival of our minister in England. The British government knew of his coming. But in hottest haste they did this thing.

The other aggravation is found in its flagrant, unnatural departure from that anti-slavery rule, which, by manifold declarations, legislative, political, and diplomatic, was the avowed creed of England. Often was this rule proclaimed, but, if we except the great act of emancipation, never more pointedly than in the famous circular of Lord Palmerston, while Minister of Foreign Affairs, announcing to all nations that England was pledged to the universal abolition of slavery. And now, when slaveholders, in the very madness of barbarism, broke away from the national Government and attempted to found a new empire with slavery as its declared cornerstone, anti-slavery England, without a day's delay, without even waiting the arrival of our minister, who was known to be on his way, made haste to decree that this shameful and impossible pretension should enjoy equal rights with the national Government in her shipyards, foundries, and manufactories, and equal rights on the ocean. Such was the decree. Rebel slaveholders, occupied in a hideous attempt, were taken by the hand, and thus, with the official protection and the God-speed of anti-slavery England, commenced their accursed work.

I close this part of the argument by the testimony of Mr. Bright, who, in a speech at Rochdale, among his neighbors, February 3, 1863, thus exhibits the criminal complicity of England:

"I regret more than I have words to express this painful fact, that, of all the countries in Europe, this country is the only one which has men in it who are willing to take steps in favor of this intended slave government. We supply the ships;

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Mr. Webster, in his negotiation with Lord Ashburton, characterized this act as "of itself a wrong and offence to the sovereignty and the dignity of the United States, for which to this day no atonement, or even apology, has been made by Her Majesty's government"; all these words being strictly applicable to the present case. Lord Ashburton, in reply, after recapitulating some mitigating circumstances and expressing a regret "that some explanation and apology for this occurrence was not immediately made," proceeds to make these. Here again was reparation for a wrong done to the nation.

Looking at what is due to us on the present occasion, we are brought again to the conclusion that the satisfaction of individuals whose ships have been burned or sunk is only a small part of what we may justly expect. As in the earlier cases where the national sovereignty was insulted, there should be an acknowledgment of wrong, or at least of liability, leaving to the commissioners the assessment of damages only. The blow inflicted by that fatal proclamation, which insulted our national sovereignty and struck at our unity as a nation, followed by broadside upon broadside, driving our commerce from the ocean, was kindred in character to those earlier blows, and, when we consider that it was in aid of slavery, it was a blow at civilization itself. Besides degrading us and ruining our commerce, its direct and constant influence was to encourage the rebellion, and to prolong the war waged by slave masters at such cost of treasure and blood. It was a terrible mistake, which I cannot doubt that good Englishmen must regret. And now, in the interest of peace, it is the duty of both sides to find a remedy, complete, just, and conciliatory, so that the deep sense of wrong and the detriment to the republic may be forgotten in that proper satisfaction which a nation loving justice cannot hesitate to offer.

Individual losses may be estimated with reasonable accuracy. Ships burned or sunk with their cargoes may be counted and their value determined; but this leaves without recognition the vaster damage to commerce driven from the ocean, and that other damage, immense and infinite, caused by the prolongation of the war, all of which may be called *national* in contradistinction to *individual*.

Our *national losses* have been frankly conceded by eminent Englishmen. I have already quoted Mr. Cobden, who did not hesitate to call them "cruel losses." During the same debate in which he let drop this testimony, he used other words, which show how justly he comprehended the case. "*You have been,*"

we supply the arms, the munitions of war; we give aid and comfort to the foulest of crimes. Englishmen only do it."—Bright's *Speeches*, Vol. I, p. 239.

At last the rebellion succumbed. British ships and British supplies had done their work, but they failed. And now the day of reckoning has come; but with little apparent sense of what is due on the part of England. Without one soothing word for a friendly power deeply aggrieved, without a single regret for what Mr. Cobden, in the House of Commons, called "the cruel losses" inflicted upon us, or for what Mr. Bright called "aid and comfort to the foulest of crimes," or for what a generous voice from Oxford University denounced as a "flagrant and maddening wrong," England simply proposes to submit the question of liability for "individual losses" to an anomalous tribunal where chance plays its part. This is all. Nothing is admitted even on this question; no rule for the future is established; while nothing is said of the indignity to the nation, nor of the damages to the nation. On an earlier occasion it was otherwise.

Here the speaker referred to the *Chesapeake* affair (see page 129).

The brilliant Mr. Canning, British Minister of Foreign Affairs, promptly volunteered overtures for an accommodation, by declaring His Majesty's readiness to take the whole of the circumstances of the case into consideration and "to make reparation for any alleged injury to the sovereignty of the United States, whenever it should be clearly shown that such injury has been actually sustained and that such reparation is really due." After years of painful negotiation the British minister at Washington, under date of November 1, 1811, offered to the United States three propositions: first, the disavowal of the unauthorized act; secondly, the immediate restoration, so far as circumstances would permit, of the men forcibly taken from the *Chesapeake*; and, thirdly, a suitable pecuniary provision for the sufferers in consequence of the attack on the *Chesapeake*.

I adduce this historic instance to illustrate partly the different forms of reparation. Here, of course, was reparation to individuals; but there was also reparation to the nation, whose sovereignty had been outraged.

The speaker then referred to the burning by Canadians of the American vessel *Carolina* in 1837.

said he, "*carrying on war from these shores with the United States*, and have been inflicting an amount of damage on that country greater than would be produced by many ordinary wars. It is estimated that the loss sustained by the capture and burning of American vessels has been about \$15,000,000, or nearly £3,000,000 sterling. But this is a small part of the injury which has been inflicted on the American marine. We have rendered the rest of her vast mercantile property useless." After confessing his fears with regard to "the heaping up of a gigantic material grievance such as was then rearing," he adds, in memorable words:

"You have already done your worst toward the American mercantile marine. What, with the high rate of insurance, what with these captures, and what with the amount of damage you have done to that which is left, you have virtually made valueless that vast property. Why, if you had gone and helped the Confederates by bombarding all the accessible seaport towns of America a few lives might have been lost which, as it is, have not been sacrificed, but you could hardly have done more injury in the way of destroying property than you have done by these cruisers. [Hear, hear.]"

In the same debate William E. Forster said that so entirely was our commerce driven from the ocean that for six weeks not an American vessel was seen by the *Georgia* on her second cruise.

Mr. Forster announced that "the carrying trade of the United States was transferred to British merchants"; and Mr. Cobden declared this circumstance to be "the gravest part of the question of our relations with America." But this "gravest part" is left untouched by the pending treaty.

Such is the candid and explicit testimony of Englishmen, pointing the way to the proper rule of damages.

I refer to the interesting report of Mr. Morse, our consul at London, made during the last year and published by the Secretary of State. After a minute inquiry the report shows that, on the breaking out of the rebellion in 1861, the entire tonnage of the United States, coasting and registered, was 5,539,813 tons, of which 2,642,625 tons were registered and employed in foreign trade, and that, at the close of the rebellion in 1865, notwithstanding an increase in coasting tonnage, our registered tonnage had fallen to 1,602,528 tons, being a loss during the four years of more than a million tons, amounting to about forty per cent. of our foreign commerce. During the same four years the total tonnage of the British empire rose from 5,895,-

369 tons to 7,322,604 tons, the increase being especially in the foreign trade. The report proceeds to say that, as to the cause of the decrease in America and the corresponding increase in the British empire, "there can be no room for question or doubt."

Beyond the actual loss in the national tonnage there was a further loss in the arrest of our natural increase in this branch of industry, which an intelligent statistician puts at five per cent. annually, making, in 1866, a total loss on this account of 1,384,958 tons, which must be added to 1,229,035 tons actually lost. The same statistician, after estimating the value of a ton at forty dollars gold, and making allowance for old and new ships, puts the sum total of national loss on this account at \$110,000,000.

To these authorities I add that of the National Board of Trade, which, in a recent report on American shipping, after setting forth the diminution of our sailing tonnage, says that it is all to be traced to the war on the ocean, and the result is summed up in the words, that, "while the tonnage of the nation was rapidly disappearing by the ravages of the rebel cruisers and by sales abroad, there was no construction of new vessels going forward to counteract the decline even in part." Such is the various testimony, all tending to one conclusion.

This is what I have to say for the present on *national losses* through the destruction of commerce. These are large enough; but there is another chapter where they are larger far. I refer, of course, to the national losses caused by the prolongation of the war and traceable directly to England. No candid person, who studies this eventual period, can doubt that the rebellion was originally encouraged by hope of support from England; that it was strengthened at once by the concession of belligerent rights on the ocean; that it was fed to the end by British supplies; that it was quickened into renewed life with every report from the British pirates, flaming anew with every burning ship; nor can it be doubted that without British intervention the rebellion would have soon succumbed under the well-directed efforts of the national Government. Not weeks or months, but years were added in this way to our war, so full of the most costly sacrifice. The subsidies which, in other times, England contributed to Continental wars were less effective than the aid and comfort which she contributed to the rebellion. It cannot be said too often that the *naval base* of the rebellion was not in America, but in England. Mr. Cobden boldly said in the House of Commons that England made war from her shores on the United States "with an amount of damage to that

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case of the nation the evidence is historic; and this is enough. Impartial history will record the national losses from British intervention, and it is only reasonable that the evidence of these losses should not be excluded from judgment. Because the case is without precedent, because no nation ever before received such injury from a friendly power, this can be no reason why the case should not be considered on the evidence.

Even the rule of the common law furnishes no impediment; for our damages are the natural consequence of what was done. But the rule of the Roman law, which is the rule of international law, is broader than that of the common law. The measure of damages, according to the Digest, is, "whatever may have been lost or might have been gained": *quantum mihi abest, quantumque lucrari potui*. This rule opens the door to ample reparation for all damages, whether individual or national.

There is another rule of the common law, in harmony with strict justice, which is applicable to the case. I find it in the law relating to *nuisances*, which provides that there may be two distinct proceedings, first, in behalf of individuals, and, secondly, in behalf of the community. Obviously reparation to individuals does not supersede reparation to the community. The proceeding in the one case is by action at law, and, in the other, by indictment. The reason assigned by Blackstone for the latter is "because the damages being common to all the king's subjects, no one can assign his particular proportion of it." (3 *Black. Com.*, p. 219.) But this is the very case with regard to damages sustained by the nation.

A familiar authority furnishes an additional illustration, which is precisely in point:

"No person, natural or corporate, can have an action for a *public nuisance*, or punish it; but only the king in his public capacity of supreme governor and *pater familias* of the kingdom. Yet this rule admits of one exception; where a private person suffers some extraordinary damage beyond the rest of the king's subjects."—*Tomlins' Law Dict.*, Art. Nuisance.

Applying this rule to the present case, the way is clear. Every British pirate was a *public nuisance*, involving the British government, which must respond in damages, not only to the individuals who have suffered but also to the national Government, acting as *pater familias* for the common good of all the people.

Thus by an analogy of the common law, in the case of a public nuisance, also by the strict rule of the Roman law, which enters so largely into international law, and even by the rule of the

country greater than in many ordinary wars." According to this testimony, the conduct of England was war; but it must not be forgotten that this war was carried on at our sole cost. The United States paid for a war waged by England upon the national unity.

The sacrifice of precious life is beyond human compensation; but there may be an approximate estimate of the national loss in money. The rebellion was suppressed at a cost of more than four thousand million dollars, a considerable portion of which has been already paid, leaving twenty-five hundred millions as a national debt to burden the people. If, through British intervention, the war was doubled in duration, or in any way extended, as cannot be doubted, then is England justly responsible for the additional expenditure to which our country was doomed; and, whatever may be the final settlement of these great accounts, such must be the judgment in any chancery which consults the simple equity of the case.

This plain statement, without one word of exaggeration or aggravation, is enough to exhibit the magnitude of the national losses, whether from the destruction of our commerce or the prolongation of the war. They stand before us mountain-high, with a base broad as the nation, and a mass stupendous as the rebellion itself. It will be for a wise statesmanship to determine how this fearful accumulation, like Pelion upon Ossa, shall be removed out of sight, so that it shall no longer overshadow the two countries.

Perhaps I ought to anticipate an objection from the other side to the effect that these national losses, whether from the destruction of our commerce or the prolongation of the war, are indirect and remote, so as not to be a just cause of claim. This is expressed at the common law by the rule that "damages must be for the natural and proximate consequence of an act." (2 *Greenleaf, Ev.*, p. 210.) To this excuse the answer is explicit. The damages suffered by the United States are twofold, individual and national, being in each case direct and proximate, although in the one case individuals suffered and in the other case the nation. It is easy to see that there may be occasions, where, overtopping all individual damages, are damages suffered by the nation, so that reparation to individuals would be insufficient; nor can the claim of the nation be questioned simply because it is large, or because the evidence with regard to it is different from that in the case of an individual. In each case the damage must be proved by the best possible evidence, and this is all that law or reason can require. In the

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common law relating to damages, all losses, whether individual or national, are the just subject of claim. It is not I who say this; it is the law.

Here the speaker recounted the sharp refusals by Great Britain on our repeated early presentations of the claims.¹

Had the early overtures of our Government been promptly accepted, or had there been at any time a just recognition of the wrong done, I doubt not that this great question would have been settled; but the rejection of our very moderate propositions and the protracted delay, which afforded an opportunity to review the case in its different bearings, have awakened the people to the magnitude of the interests involved. If our demands are larger now than at our first call it is not the only time in history where such a rise has occurred. The story of the Sibyl is repeated, and England is the Roman king.

Shall these claims be liquidated and canceled promptly, or allowed to slumber until called into activity by some future exigency? There are many among us who, taking counsel of a sense of national wrong, would leave them to rest, without settlement, so as to furnish a precedent for retaliation in kind, should England find herself at war. There are many in England who, taking counsel of a perverse political bigotry, have spurned them absolutely; and there are others who, invoking the point of honor, assert that England cannot entertain them without compromising her honor. Thus there is peril from both sides. It is not difficult to imagine one of our countrymen saying with Shakespeare's Jew, "The villainy you teach me I will execute, and it shall go hard, but I will better the instruction"; nor is it difficult to imagine an Englishman firm in his conceit, that no apology can be made and nothing paid. I cannot sympathize with either side. Be the claims more or less, they are honestly presented, with the conviction that they are just, and they should be considered candidly, so that they shall no longer lower, like a cloud ready to burst, upon two nations, which, according to their inclinations, can do each other such infinite injury or such infinite good. I know it is sometimes said that war between us must come sooner or later. I do not believe it. But if it must come, let it be later, and then I am sure it will never come. Meanwhile, good men must unite to make it impossible.

¹See Chapter VII.

The Senate promptly rejected the Johnson-Clarendon Treaty with the approval of President Grant. The rejection was announced to the British Government by John Lothrop Motley, who had succeeded Mr. Johnson as our minister to Great Britain. Hamilton Fish, our Secretary of State, suggested to Mr. Motley that negotiations be temporarily suspended, though with maintenance of the justice of our claims.

In his second annual message (December, 1870) President Grant inaugurated a reopening of the claims by his recommendation that Congress should authorize a commission to fix the amounts, ownership, etc., of the private claims, notifying the British minister at Washington (Sir Edward Thornton) of the fact, and should give the United States Government power to prosecute these, as well as its own claim for general damages.

This declaration of the President made a profound impression on Great Britain. The Franco-American war was then in progress, and Great Britain was apprehensive that she might become involved in a European conflict. Therefore she was apprehensive that in event of this the United States would use the precedent of the *Alabama* and other cases to engage in privateering against British commerce. Accordingly, early in January, 1871, she sent to the United States Sir John Rose, an English banker, on a secret mission upon the matter. As a result of his prompt and adroit action, an understanding was reached between the two countries which resulted in a proposal, on January 26, from the British Government, presented by its minister at Washington, to reopen the settlement of the fishery question and all other matters affecting the relations of the United States to British America by establishing a Joint High Commission to meet at Washington.

Secretary Fish suggested to Minister Thornton that the *Alabama* claims should also be settled by this commission. Under instructions cabled by the Earl of Granville, British Secretary of Foreign Affairs, Minister Thornton accepted the suggestion. On February 22 the British commissioners arrived in this country, having been so hurried by their Government, it was said, that

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The American case before the arbitrators was prepared by J. C. Bancroft Davis and argued by William M. Evarts, Caleb Cushing, and Morrison R. Waite. The chief counsel for Great Britain was Sir Roundell Palmer. The chief contention was over the American claims for



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indirect damages (see preceding speech of Senator Sumner). Several times dissolution of the commission was threatened on this issue, and finally these claims were disallowed.

The award was paid by Great Britain in 1872. On June 23 of this year Congress created a Court of Claims to distribute the award among the individual claimants. This court rendered judgments aggregating \$9,315,753. A second and similar court was established on June 5, 1882. Much of the remainder of the award remains undistributed. At various times it has been proposed, but without result, to return the balance to Great Britain.

The commission to adjust other war claims between

they came with hand luggage only, leaving their trunks to follow with their servants.

The British commissioners were Earl de Grey; Lord Ripon, President of the Queen's Counsel; Sir Stafford Northcote, late Secretary of the Exchequer; Minister Thornton; Sir John MacDonald, Canadian Premier; and Montague Bernard, Oxford Professor of International Law.

The American commissioners were Secretary Fish; Robert C. Schenck, who had just been appointed Minister to Great Britain; Samuel Nelson, Associate-Justice of the Supreme Court; E. Rockwood Hoar, late Attorney-General; and George H. Williams, late Senator from Oregon. The American commissioners were appointed by the President with confirmation by the Senate.

The Joint High Commission concluded the Treaty of Washington on May 8, 1871. By this the *Alabama* claims were to be adjusted by five arbitrators, one to be named by Queen Victoria, one by President Grant, one by the King of Italy, one by the President of Switzerland, and one by the Emperor of Brazil. The question was to be settled according to the principles of International Law as prevailing at the time, the British Government, to save its face, not conceding that it recognized these principles at the time the claims originated, when it had refused to admit the principles.

Other claims for damages between citizens of the two countries arising during the war were to be adjusted by a commission meeting in Washington; and the boundary dispute (San Juan) with Canada was to be referred to the Emperor of Germany.

On the Geneva Commission Great Britain appointed Sir Alexander Cockburn; the United States, Charles Francis Adams; Italy, Count Frederick Sclopis; Switzerland, Jacob Staempfli; Brazil, Baron d'Itajubá. The commission met in December, 1871, and sat until September 14, 1872, when it gave judgment that Great Britain should settle the claims in full by paying \$15,500,000 in gold. Sir Alexander Cockburn was the only arbitrator who dissented from the award.

British and American citizens was constituted of three appointees by President Grant, Queen Victoria, and by these two appointees. It met at Washington on September 26, 1871, and after several adjournments made its final award at Newport, Rhode Island, on September 25, 1873. All American claims were rejected and British claims to the amount of \$1,929,819 were allowed. This was subsequently paid.

In the Treaty of Washington an attempt was made to settle definitely the fishery dispute, by allowing citizens of the United States to take fish of any kind except shellfish, in all Canadian waters, and British subjects to do the same in all waters of the United States north of 39° north latitude. But as it was asserted by Great Britain that the privilege of fishing in American waters was worthless, the subject was referred to a commission, to be composed of one appointee from the United States, one from Great Britain, and a third to be named by the Emperor of Austria. The commission met in Halifax, Nova Scotia, on June 5, 1877. It awarded Great Britain \$5,500,000 for the use of her fisheries for twelve years, the period of the treaty. The money was appropriated by Congress in 1878 with the proviso that the fishery articles in the Treaty of Washington "ought to be terminated at the earliest period consistent with the provisions of the treaty." The articles were therefore discontinued on July 1, 1885. In 1888 a new treaty was negotiated, but was rejected by the Senate. Not until 1910 was the vexatious fishery dispute finally settled. On June 1 of that year Great Britain and the United States submitted the question to the International Court of Arbitration at The Hague. The decision of the Court was announced on September 7. The Court decided:

1. Great Britain has the right to make regulations for the preservation of her fisheries without the consent of the United States.
2. Inhabitants of the United States have the right to employ as members of their fishing crews persons not inhabitants of the United States.
3. The requirement that American fishing vessels

report at Canadian custom-houses is not unreasonable. But American fishermen must not be subjected to light, harbor or other dues not imposed upon Canadian fishermen.

4. Americans are entitled to fish in the bays, creeks and harbors of the treaty coasts of Newfoundland and the Magdalen Islands.

The Canadian boundary dispute which was referred to the Emperor of Germany, who in turn referred it to experts, was settled purely on the legal construction of the treaty of June 15, 1846, and on geographical facts. The decision (rendered October 21, 1872) was in favor of the United States, which thereby acquired possession of the island of San Juan in Pacific waters. This was largely due to the fact that the American case was presented by George Bancroft, minister at Berlin, who had been minister to Great Britain when the treaty of 1846 was made, and was therefore thoroughly conversant with the subject. The decision was the last of the various boundary disputes which had been a source of irritation between the United States and Great Britain (including Canada) since the close of the Revolution.

GREAT DEBATES IN AMERICAN HISTORY

*From the Debates in the British Parliament on the
Colonial Stamp Act (1764-1765) to the Debates
in Congress at the Close of the Taft
Administration (1912-1913)*

EDITED BY

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IN FOURTEEN VOLUMES

EACH DEALING WITH A SPECIFIC SUBJECT, AND CONTAINING A SPECIAL INTRO-
DUCTION BY A DISTINGUISHED AMERICAN STATESMAN OR PUBLICIST

VOLUME THREE

FOREIGN RELATIONS: PART TWO
With an Introduction by THEODORE ROOSEVELT, LL.D.
Ex-President of the United States



Theodore Roosevelt

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INTRODUCTION

NATIONALISM AND INTERNATIONAL RELATIONS¹

A MAN must first care for his own household before he can be of use to the state. But, no matter how well he cares for his household, he is not a good citizen unless he also takes thought of the state. In the same way a great nation must think first of its own internal affairs; and yet it cannot substantiate its claim to be a great nation unless it also thinks of its position in the world at large.

The United States of America has not the option as to whether it will or will not play a great part in the world. It *must* play a great part. All that it can decide is whether it will play that part well or badly. And it can play it badly if it adopts the rôle either of the coward or of the bully. Nor will it help it in the end to avoid either part if it play the other. It must avoid both. Democratic America can be true to itself, true to the great cause of freedom and justice, only if it shows itself ready and willing to resent wrong from the strong, and scrupulously desirous of doing generous justice to both strong and weak.

There are, of course, very few people who will openly take the position that we are justified in doing what is wrong simply because it is to our interest. But in actual practice there are always plenty of men willing to condone and excuse any wrongful act which they think is advantageous. These men by themselves never

¹ Adapted from an article in the *Outlook*, April 1, 1911.

INTRODUCTION

tion to showing them, do their best to keep the country unprepared for the trouble which they are so lightly willing to provoke. Wantonly to insult a friendly nation is bad; to be unable ourselves to resist wrong is worse; but the lowest depth is reached by those who practice the policy of peace with insult, who are ever ready to join in measures or to use language extremely offensive to foreign powers, and who nevertheless by their votes or speeches on the question of national defence show that they lack either the far-sightedness or the patriotism to take thought of the interest of the nation in the years to come.

So much for those Americans who fall short of the proper standard of international good manners, and just and kindly treatment as regards foreign peoples. Now for the American who commits the even worse offence of endeavoring to make this nation the derision and butt of other nations by refusing to allow it to take proper measures for its own defence. Unfortunately, many of those often well-meaning persons who claim a leading position among the advocates of international peace have harmed their cause in the eyes of all really far-sighted and patriotic citizens by advocating for America a position which would be abjectly unworthy of her standing among the nations. This category includes those who opposed our war with Spain, those who opposed the subsequent enforcement of law and order in the Philippines, those who opposed the building up of the navy, and those who now oppose the fortification of the Panama Canal. Some of these men are misguided men of good character; others, however, are merely men who do not possess any keen sense of international honor, and who are perfectly willing to see this nation expose itself to the chance of discredit and disaster, because their own small souls would be unaffected by a national defeat which would make most Americans bow their heads with bitterness and shame. As regards these men, I should not have the slightest objection to their inviting the disaster that would come upon them if their wishes were fulfilled, were it not for the fact that the rest of us would unfortunately have

form more than a minority, and usually a very small minority, of our people; but often the majority is supine, indifferent, or ill-informed, and thus may give a free hand to an unscrupulous minority. In making treaties, for instance, there must be give and take; and yet too often a treaty which represents actual performance in the present—as distinguished from the usually worthless type of general arbitration treaty which represents nothing but vague general promise for the future—will fail simply because our people permit a small section of their number to insist that it shall be all take and no give. Again, as the nation, and not the several States, has to deal with foreign powers, the nation should have complete control over all questions likely to cause trouble with foreign powers, and therefore should have the complete and fully recognized ability to protect all aliens in their treaty rights. Yet in actual practice occasions have not infrequently arisen which have shown rather pitiable national shortcomings in this respect.

I do not think, however, that, on the whole, much blame rests on us so far as *action* of this kind is concerned. I wish it were possible for us always to say as much as regards *speech*. Too many, both of our public men and publicists, seek at times to gratify themselves or their constituents in unworthy fashion by the use of insulting language in reference to foreign powers. The better American a man is, the more confident he is in America's strength and standing, the more ashamed he must be at every such exhibition of international bad manners on the part of any representative of our people. Courtesy is as much the mark of a gentleman as courage. If we respect ourselves, we individually show both qualities; and, in our collective capacity, we should demand of our representatives that the nation show both qualities in its dealings with other nations. We despise the coward; we despise no less heartily the loud-mouthed brawler. Bad manners and vituperation never yet won respect for either nation or individual. There is, however, a lower depth than is reached by those who merely show these shortcomings; that is, by those who, in addi-

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to share in the disaster. It is somewhat exasperating to reflect that we have to protect these particular peace advocates of the crazy type from themselves, and, in spite of their shrieking protests, guard them and their children against suffering their share of the national humiliation they do their best to bring about. If these men were capable of learning any lesson from history what has happened and is happening in China before their eyes would prove to them that a nation, however big, however industrious and populous, which is incapable of self-defence, not only invites humiliation for itself, but is a fruitful source of discord and possible war as regards other nations.

It behooves a democracy to remember that one of the favorite taunts leveled against it by the representatives of great military monarchies is that a democracy will never prepare for war, and will rarely show wisdom in choosing positions valuable for national defence. Unquestionably it is true that a democracy has plenty of bad advisers. Among these bad advisers are the foolish creatures who try to prevent our having a big navy and the equally foolish creatures who say that if we have a big navy there is no need of fortifications. As a matter of fact, fortifications should always be established on the land side as well as on the sea side; and one of their prime uses is to leave the navy foot-loose. If the Panama Canal were not fortified, in time of war we should either have to abandon it to any enterprising enemy, or else paralyze our fleet by employing it to defend the canal. If it is adequately fortified our fleet can absolutely disregard it save in so far as it fulfills the vital requisite of a first-class naval base. War vessels are inefficient substitutes for forts, and the poorest way to use a navy is to string the vessels in small groups in the ports along a coast, for then the enemy's navy can get them in detail. An unfortified Panama Canal would be a great source of weakness to this country; a fortified Panama Canal would enormously increase our strength. With the possible exception of Hawaii there is no other spot so necessary to fortify as the Panama Canal. We should have very few naval

bases. These few should be thoroughly fortified and strongly held, and among them the two most important are those above mentioned.

One of the difficulties in dealing with foreign affairs is the queer tendency of many people to treat desire on our part to have an adequate navy and coast fortifications as equivalent to the statement that we believe there will be a war, and as justifying offensive war talk. Most certainly we hear at times offensive, and therefore utterly improper, talk of war with some entirely friendly nation, now Germany, now England, now Japan. No one can regret such talk more than I do, and it is almost never indulged in by men who would themselves respond to the call to arms if war should unhappily come. A man who is of the type apt to be useful in war is usually of too serious a nature to talk with levity or brutality of war, or in such fashion as to provoke war. My hearty reprobation of this type of offensive agitation does not interfere in the least with my belief, in the first place, that war is unlikely with any power, and in the next place that we can render it still more unlikely, as well as guarantee ourselves against possible humiliation and disaster, by the exercise of moderate forethought and preparation. To the good people who, because we laugh at a war scare about the Japanese or Germans, think that therefore we should abandon the upbuilding of the navy and the proper care of the army, I feel inclined to put the question whether, if they own houses, they have them insured or not. If the house is insured against fire it does not in the least mean that the owner thinks it will be burned down; he thinks it unlikely that it will be burned down, but, as a prudent man, he wishes to discount even the slight risk. It is just so with us. In my time I have seen war scares about England, Germany, and Japan. I should regard war with any of the three as an unspeakable calamity. I admire all three nations. To speak only of the nation concerning which there has been most recent talk of war, I not only have a great respect and admiration for the Japanese, but I very strongly feel that we have much to learn from them. I regard a

CHAPTER I

ANNEXATION OF SAN DOMINGO

President Grant Negotiates Treaty of Annexation with the Dominican Republic; It Is Rejected by the Senate—He Returns to the Proposition in His Second Annual Message—Oliver P. Morton [Ind.] Introduces in Senate Joint Resolution to Investigate San Domingo—Debate: Varying Views by Allen G. Thurman [O.], John Sherman [O.], Garrett Davis [Ky.], Willard Warner [Ala.], Justin S. Morrill [Vt.], George F. Edmunds [Vt.], Thomas F. Bayard [Del.], Charles Sumner [Mass.], Senator Morton, James W. Nye [Nev.], Zachariah Chandler [Mich.], Roscoe Conkling [N. Y.]; Resolution Is Passed—Jacob A. Ambler [O.] Moves Proviso in the House That Congress Be Not Committed by the Investigation; Adopted—Resolution Passed by Congress—The Commission Recommends Annexation; Recommendation Not Acted Upon—The President's Vindication of His Motives.

PRESIDENT GRANT, through negotiations conducted by one of his private secretaries, Gen. Orville E. Babcock, made a treaty annexing the republic of Dominica (San Domingo) on November 29, 1869. This territory constituted the eastern portion (about two-thirds of the whole) of the island now known as Haiti, which is, next to Cuba, the largest of the West Indies, comprising 28,000 square miles. Announcing this treaty and assuming its ratification by the Senate, the President in his first annual message in December dilated upon the advantages which the annexation of the republic would bring to the United States, asserting that San Domingo would yield all the sugar, coffee, tobacco, and other tropical products which the country would consume.

The subject of confirming the President's treaty annexing the West Indian republic was discussed by the Senate in executive session, the speeches of which are not published. Finally, on June 30, 1870, the Senate by

good understanding between Japan and the United States as of capital consequence to this country, and as of the first importance from the standpoint of preserving peace in the Pacific. It would not be for the interest of either country to admit from the other country any considerable number of wageworkers, small farmers, or men engaged in small agricultural pursuits, and the wisest and most far-seeing men of both countries take the same view of this matter. But there should be the closest and friendliest relations between the two countries, conducted on a basis of absolute equality and of mutual regard and respect.

The American democracy not only owes it to itself to be thoroughly able and ready to defend America against any possible foes, but it also owes to itself the duty of treating in a spirit of genuine courtesy and friendliness all foreign powers; and as regards no power is this duty more incumbent than toward our great and friendly neighbor across the Pacific, that ancient empire which has all the most astounding vigor of youth—the Empire of Japan.

Theodore Roosevelt

a tie vote, 28 to 28, refused to confirm the treaty, to do which a three-fourths affirmative vote was required. The President, however, persisted in his project, upon which he had evidently set his heart, recommending it again in his second annual message at the convening of Congress early in the following December.

"Time," he said, "has only confirmed me in my former view." He believed that if we failed to annex the country a free port would be inaugurated in the Bay of Samana.

A large commercial city will spring up to which we will be tributary without receiving corresponding benefits, and then will be seen the folly of our rejecting so great a prize.

The acquisition of San Domingo is desirable because of its geographical position. It commands the entrance to the Caribbean Sea, and the isthmus transit of commerce. It possesses the richest soil, best and most capacious harbors, most salubrious climate, and the most valuable products of the forest, mine, and soil, of any of the West India islands. Its possession by us will in a few years build up a coastwise commerce of immense magnitude, which will go far toward restoring to us our lost merchant marine. It will give to us those articles which we consume so largely and do not produce, thus equalizing our exports and imports. In case of foreign war it will give us command of all the islands referred to, and thus prevent an enemy from ever again possessing himself of rendezvous upon our very coast. At present our coast trade between the States bordering on the Atlantic and those bordering on the Gulf of Mexico is cut in two by the Bahamas and the Antilles. Twice we must, as it were, pass through foreign countries to get by sea from Georgia to the west coast of Florida.

San Domingo, with a stable government, under which her immense resources can be developed, will give remunerative wages to tens of thousands of laborers not now upon the island. This labor will take advantage of every available means of transportation to abandon the adjacent islands, and seek the blessings of freedom and its sequence—each inhabitant receiving the reward of his own labor. Porto Rico and Cuba will have to abolish slavery, as a measure of self-preservation, to retain their laborers.

San Domingo will become a large consumer of the products of northern farms and manufactories. The cheap rate at which her citizens can be furnished with food, tools, and machinery

will make it necessary that contiguous islands should have the same advantages, in order to compete in the production of sugar, coffee, tobacco, tropical fruits, etc. This will open to us a still wider market for our products. The production of our own supply of these articles will cut off more than one hundred millions of our annual imports, besides largely increasing our exports. With such a picture it is easy to see how our large debt abroad is ultimately to be extinguished. With a balance of trade against us (including interest on bonds held by foreigners, and money spent by our citizens traveling in foreign lands) equal to the entire yield of the precious metals in this country, it is not so easy to see how this result is to be otherwise accomplished.

The acquisition of San Domingo is an adherence to the "Monroe doctrine"; it is a measure of national protection; it is asserting our just claim to a controlling influence over the great commercial traffic soon to flow from west to east, by way of the Isthmus of Darien; it is to build up our merchant marine; it is to furnish new markets for the products of our farms, shops, and manufactories; it is to make slavery insupportable in Cuba and Porto Rico at once, and ultimately so in Brazil; it is to settle the unhappy condition of Cuba and end an exterminating conflict; it is to provide honest means of paying our honest debts without overtaxing the people; it is to furnish our citizens with the necessities of everyday life at cheaper rates than ever before; and it is, in fine, a rapid stride toward that greatness which the intelligence, industry, and enterprise of the citizens of the United States entitle this country to assume among nations.

In view of the importance of this question, I earnestly urge upon Congress early action, expressive of its views as to the best means of acquiring San Domingo. My suggestion is that, by joint resolution of the two houses of Congress, the Executive be authorized to appoint a commission to negotiate a treaty with the authorities of San Domingo for the acquisition of that island, and that an appropriation be made to defray the expenses of such commission. The question may then be determined, either by the action of the Senate upon the treaty, or the joint action of the two Houses of Congress upon a resolution of annexation, as in the case of the acquisition of Texas. So convinced am I of the advantages to flow from the acquisition of San Domingo, and of the great disadvantages, I might almost say calamities, to flow from non-acquisition, that I believe the subject has only to be investigated to be approved.

ANNEXATION OF SAN DOMINGO

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pared to annex Dominica in its present condition, without one man in it out of ten thousand who can speak the English language, without one man out of ten thousand who can read a word in any language, without one man in ten thousand who has the slightest idea of our Government? Is the Senate prepared to admit Dominica as a State in this Union at this session of Congress? That is the question.

Nobody, I think, has the least idea that any treaty for its annexation can be ratified. This Senate is not so ignorant that it did not know every essential thing in this resolution when it voted on the treaty. It would be to stultify ourselves to say that there is one single material inquiry in all this resolution that was not known to the Senate when it voted on the treaty.

What, then, is the use of this commission? What is the use of sending out these people who are to inquire into every sort of thing—these men who are to inquire into government, into debt, and then to turn ethnologists and hunt up information as to the physical, material, and moral condition of the people of Dominica, and then to turn mineralogists and geologists, and find out what is the mineral wealth of Dominica, and then to find out what is the atmosphere, the temperature, the variation of seasons, and the climate of that island; and so on from step to step, being a commission scientific, political, economical, historical, and the Lord only knows what it is not, according to this resolution? What is the use of all that if the Senate is not willing to admit Dominica as a State, for that is the real question and the only question?

Mr. President, it is a wide departure that we are asked to take from the original policy of the Government. It was at one time made a question, and a very serious one, whether Congress had the right to acquire territory at all. We all know that Mr. Jefferson, when it was proposed to acquire Louisiana, if not in his public messages, in his private letters, said that there was no power vested in Congress to acquire it, even although it was a great commercial necessity, and he advised his friends to violate the letter of the Constitution and depend upon the people for an amendment afterward to justify it.¹ But now we are asked not simply to annex territory within the continent, but to go outside and commence the policy of insular acquisition. That policy is well worth inquiring into before we send a commission to investigate the physical and mental and moral condition of the people who inhabit the island which we are asked to annex.

¹ See Volume II, pages 102, 111, 112.

INVESTIGATION OF SAN DOMINGO

SENATE, DECEMBER 12-21, 1870

In accordance with the recommendation in the President's message, on December 12, 1870, Oliver P. Morton [Ind.] introduced in the Senate a joint resolution authorizing the President to appoint three commissioners to investigate the political and social conditions and natural resources of the republic of Dominica with reference to the desirability of its annexation to the United States as one of its territories, the commissioners to have expenses paid but to receive no compensation. The resolution was brought forward for discussion on December 20.

Allen G. Thurman [O.] opposed the resolution. The rejection of the Dominican treaty by the Senate, he said, showed a direct opposition to the President, to which the masterful man in the White House was evidently unwilling to defer.

Seeing that Dominica is not likely to be annexed under the treaty-making power, for want of the requisite support in the Senate, he suggests that it may be annexed by joint resolution, as in the case of Texas; and it is with a view to carry out, no doubt, the wishes or opinions of the President in this particular that the Senator from Indiana has introduced this joint resolution.

Now, the first thing that strikes me is this: is the Senate ready to recede from its position? Is the Senate willing to ratify a treaty for the annexation of Dominica, or is the Senate ready to annex Dominica by joint resolution? And in that connection I beg leave to call the attention of the Senate to the fact that you cannot by joint resolution annex Dominica as a Territory; you must annex her as a State if you annex her by joint resolution. There is no clause in the Constitution of the United States that provides for the acquisition of territory by joint resolution of Congress unless it be one single provision, and that is that the Congress may admit new States into the Union. It was upon that doctrine that the resolution in the case of Texas was passed. But no one has ever pretended that you could by joint resolution annex territory as a Territory without admitting it as a State. Then, if a treaty is to be abandoned, the proposition which is before the Senate is, is this Senate pre-

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John Sherman [O.] submitted that the question before the Senate was one to investigate Dominica and not to annex it.

Garrett Davis [Ky.] believed that the annexation of Texas by joint resolution (which as a Representative at the time he had opposed) had established the precedent that foreign territory may be admitted into the Union only as a State.

The President of the United States so seems to consider this subject in his annual message. We know that he negotiated a treaty with what is called the Government of Dominica, but which it is a burlesque and an abuse of language to call a government at all. That treaty was laid before the Senate. It received the deliberate and protracted consideration of the Senate. Without violation of duty I may say that one of the ablest debates I ever listened to in either House of Congress was produced by the submission of that treaty to the Senate.¹ After all the light and instruction which that debate laid before the members of the Senate the treaty was rejected, and its rejection as a treaty was in fact a finality by the vote of the Senate upon the question of its ratification, and it is so considered by the President in his annual message. Now, sir, this is a favorite pet measure of the President of the United States. He ought to have been satisfied with the rejection of the treaty which he negotiated for the annexation of Dominica. He ought to have submitted himself to the judgment of the Senate, and to the deliberate judgment of the country which came to the Senate to sustain its action in rejecting that treaty. But he did not do so. He comes to the charge deliberately, and after much consideration and anxiety, in his annual message, and he there proposes, in substance, if not in form, that Congress by joint resolution shall provide for the acquisition of Dominica as a part of the United States; not by the treaty-making power, but by the action of the two Houses of Congress. He does not propose, nor even contemplate, in that message that Dominica shall be admitted as a State. He would not so insult the understanding and the dignity of Congress, the understanding and the rights of the American people, as to make any such monstrous proposition. Still there is a general vague and covert proposition that Dominica shall be received into the Union by

¹ Unfortunately this debate took place in executive session and therefore was not published.

joint resolution of Congress, and as he in effect repudiates and does not give any countenance to the idea of its admission by joint resolution as a State into the Union, what is the effect and purpose of the President's elaborate consideration and dissertation upon that subject in his message? Simply that Congress shall advance beyond the principle and the provision of the Constitution, beyond all the precedents, and admit Dominica, not as a State into the Union, but as a Territory whose inhabitants are incompetent to take upon themselves the duties and responsibilities of citizens of the United States in the business of self-government in adopting a constitution and acting the part of a State in the Union.

It is in furtherance of this proposition, as I understand, that this joint resolution has been introduced. It is simply to take up this furtive, unconstitutional project of the President, to be effected without authority of the Constitution, and perverting and usurping its powers by Congress assuming the prerogative of the treaty-making power in admitting into the Union, as a Territory, territory that now forms part of a foreign country.

Willard Warner [Ala.] said that opposition to ratifying the President's treaty with Dominica had been based at the time on insufficiency of information concerning the country. Recognizing the force of this objection, the friends of annexation now urged a thorough and complete investigation. If gentlemen really believed that Dominica would not be a desirable acquisition they should welcome this investigation. The President would certainly appoint the very best men he could find in order to get the real facts, which he sincerely believed were in favor of the acquisition.

Justin S. Morrill [Vt.] said that any commission, knowing the President's desires, would be favorably biased toward acquisition in its report. The Senate had sufficient information about Dominica now on which to base its action—an array of documents, the fruit of vast research for years. He believed that the resolution, which had been admitted by its mover to be faulty in one particular, should be referred to the committee on foreign relations.

George F. Edmunds [Vt.] thought that it was desirable that the Senate, before whom the question of ac-

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they may be admitted, if the time shall ever come, into this great family of free States.

Thomas F. Bayard [Del.] declared that the form of the resolution made the appointees ambassadors to prepare for annexation rather than mere investigators. Why, Senators, you give them a clerk who is really a secretary of legation!

Sir, my objection *in limine*¹ to this proposition is that without the usual and proper examination by an appropriate committee it is proposed that we should embark the Government of the United States upon the vast and trackless sea of imperialism, to change it into an imperial government of outlying and distant dependencies with a foreign population, strangers to us in race, in blood, in customs, in all their systems, political, social, moral, and religious.

In so important a departure as this resolution proposes haste is not only unwise, but, in my opinion, grossly indecorous. Already this measure has been proposed in due form to the department appointed by our Constitution of Government for its consideration, and it has been rejected.

The resolution looks to the incorporation within our political system and family of States of part of an island now held by a semi-barbarous race, the descendants of African slaves, whose attempts at self-government, continued for upward of half a century, have been but a series of blood-stained failures; whose populations have dwindled away to a mere fraction of their former number in internecine strife and moral and physical degradation. Their institutions are mere mockeries, bloody travesties of political government, and to them the presence of a strong-handed and just-minded white ruler would be the greatest blessing that Heaven could bestow.

In the beginning our Union was a sisterhood of neighboring States, and we had natural boundaries. One of these is the Atlantic Ocean. Are the people of America prepared to disregard every tradition of their Government? Are the people of America prepared to embark upon this imperial system, to forsake the ancient landmarks and guides of our nation's history?

Washington in his Farewell Address warned the American people that—

"At the threshold."

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quisition would eventually come, should have the information before it which the passage of the resolution would procure. He believed that the investigation would be adverse to annexation, but for other reasons we could not know too much about any of the West Indian islands.

We cannot fail to look with absorbing interest upon all the peoples and the islands of this great archipelago of the tropics. We have for more than half a century held out to the world that we should look with a jealous eye upon any interference with their affairs by foreign nations further than the principles of public law and the existing condition of things permitted it. Certainly if there be any distinctive American doctrine upon which the whole people are supposed to be a unit it is that we shall not permit European interference or aggression beyond existing conditions (which the faith of treaties and public law do not permit us to interfere with) or the enlargement of the domain of that species of interference in governments in this great tropical archipelago of which I have spoken. Therefore, information in respect to any of these islands, in respect to their capacity to uphold and support a free, industrious, and self-governing population, is of interest to the people of the United States. I say this with reference to Cuba as well as San Domingo; Hayti, the other end of this island, as well as Dominica; St. Thomas, or whatever the island may be; as to the people who inhabit all those islands, there must be with us always a centering and absorbing interest, they, taken as a whole, lying in that great Mediterranean Sea of the western hemisphere connecting us with the Isthmus of Panama and our great coast on the Pacific. We must exclude from that sea any aggressive movement of any people on the face of the earth.

Therefore, while according to my present information I think it entirely undesirable that any of the people of these islands should be incorporated into the political system of this country, I think it entirely desirable that we should fill our archives with information as to their condition; that we should enter into treaties of alliance and protection with every one of those people; so that, if the condition of things that now exists shall be attempted to be disturbed by any foreign power or potentate whatever, it will be not only our right, but our duty, to interfere and to protect our allies and friends in these tropical countries in their present independence until the diffusion of emigration, of intelligence, of education shall make it fit that

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"The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connection as possible."

It may be said that he at that time directed his thoughts particularly to political alliances with either England or France, in whose affairs we were invited to mingle; but the principle that he there stated was true for all time; and no words can come with stronger significance and more effect to the ears of his fellow-countrymen than that potent question, "Why quit our own to stand upon foreign ground?"

Why, sir, every man must see that the acquisition of a portion, and that the more distant portion, of the island of San Domingo will inevitably lead to the acquisition of the remainder of that island, and then, finally, of the circumjacent islands, those lying between the United States and the Bay of Samana. This spirit of greed, this land-robbing spirit of the Norman, which we have expanded under democratic institutions, will crave all that surrounds this island, and the entire group of the West India islands will finally be absorbed by the American Government. At the cost of what losses by war, at what cost of death by climate, of public treasure, of demoralization to our people, who shall say?

One thing I do see so plainly that I cannot imagine how any other man, however hopeful he may be of other benefit that may arise from the acquisition of this territory, can doubt that such a scheme of empire, if indulged in, will destroy our republican system of government. The population of this island, or of these islands, can never be governed by a constitutional government like ours. They are utterly unfitted for it, permanently, naturally disqualified for it; and another government unknown to our system of laws must be framed to bring anything like peace or order or security to life or property among them. Sir, we are unable, the fiat of nature has declared that we are unable, to elevate such a race as inhabit that island to the level of our own. If a level is to be achieved at all it will only be by dragging us down, and not by bringing them up:

"We to herd with narrow foreheads, vacant of our glorious gains
Like a beast with lower pleasures; like a beast with lower pains!"²

Sir, the idea is repellant to every man who values the institutions of this country and who recognizes the great difficulty in our own land of sustaining sufficient virtue in the public mind

¹From Tennyson's "Locksley Hall."

or intelligence throughout the country to maintain the institutions of government that have descended to us. I protest against this hurrying of the nation into a policy in regard to which they have had no opportunity distinctly and deliberately to express their views. So far as they have been enabled to express them, my own opinion is that the sentiment of the people of the United States is overwhelmingly in opposition to the scheme of the Administration, without regard to party. In the section of country in which I live I doubt if one-tenth of the people could be found to sustain this proposition. Then, sir, in the face of this opinion, why should this indecorous haste mark the pressure of this pet measure of the Administration through Congress?

Charles Sumner [Mass.] said that the resolution committed Congress "to a dance of blood."

It is a new step in a measure of violence. Several steps have already been taken, and Congress is now summoned to take another.

The Senator from Ohio [Mr. Sherman] said that the resolution was simply one of inquiry, and that therefore there could be no objection to it. I was astonished when I heard one of his experience in this chamber and his familiarity with legislation characterize this simply as a resolution of inquiry. The Senator is mistaken. It is a resolution creating three offices under the Constitution of the United States, offices contemplated in the Constitution itself, and specially mentioned by name in the act of 1856 to regulate the diplomatic and consular systems of the United States.

Sir, it is something more than a resolution of inquiry. It is a serious measure, and it begins on its face by an affront to the Constitution of the United States, which expressly declares that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls"; but by this resolution he is to appoint them without the advice and consent of the Senate; and yet this resolution is accepted by my honorable friend, the Senator from Ohio.

The Senator, it seems to me, has not comprehended the object of this resolution. To my mind it is plain. It is simply this: It is to commit Congress to the policy of annexation. Otherwise, why is the resolution introduced? The President does not need it. Under his general powers he is authorized to

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The young officer, aid-de-camp of the President of the United States, with this important and unprecedented document in his pocket, returned to Washington. Instead of being called to account for this unauthorized transaction, pledging the Chief Magistrate to use his influence privately with Congress in order to cram down a measure that the confederates justly supposed to be offensive, he was sent back to this island with directions to negotiate a treaty. I would not allude to that treaty if it had not been made the subject of discussion by the President himself in his annual message. You know it. The treaty itself is not on your tables legislatively; it has never been communicated legislatively to Congress. The other House, which may be called to act upon this important measure, can know nothing of that treaty, and what we know of it we cannot speak of even in this debate. We can simply speak of its existence, for the President himself has imparted that to Congress and to the country. The treaty exists, and now the practical question is by what means was it negotiated? I have described to you the three confederates who seduced into their company the aid-de-camp of the President; and now I have to aver, and I insist that the evidence will substantiate what I say, that, at the time of the signature of the treaty of annexation, Baez was sustained in power by the presence of our naval force in the waters of the Dominican Government. Go to the documents, and you will find that what I say is true. Confer with naval officers, confer with honest, patriotic citizens who know the case, and they will all testify that without the presence of our ships of war in those waters Baez would have been obliged to flee.

This is not all, sir; I broaden this allegation. Ever since the signature of the treaty, and especially since its rejection, Baez has been sustained in power by the presence of our naval force. I ask you, sir, to do as I have done; go to the State Department and Navy Department and read the reports there on file, and what I state will be found to be substantially true.

Sir, this is a most serious business. Nothing more important to the honor of the Republic has occurred for long years. How many of us now are hanging with anxiety on the news from Europe? There stand matched in deadly combat two great historic foes, France and Germany, France now pressed to the wall; and what is the daily report? That Bismarck may take Louis Napoleon from his splendid prison and place him again on the throne of France, that he may obtain from him that treaty of surrender which the republic never will sign. Are we not all indignant at the thought? And now, sir, this is the very

appoint agents, if he pleases, to visit foreign countries, and he is supplied with a secret-service fund by which their expenses may be defrayed.

Sir, others may do as they please; others may accept this policy; I will not. I have already set myself against it, and I continue now as firm against it as ever. The information which I have received since our discussions last year has confirmed me in the conclusions which I felt it my duty then to announce. In now presenting those conclusions I beg to say that I shall forbear from considering whether the territory of Dominica is desirable or not; I shall forbear from considering its resources, even its finances, even its debt—menacing as I know it is to the treasury of our country—except so far as that debt is connected with the relations with Hayti.

I object to this proposition because it is a new stage in a measure of violence which, so far as it has been maintained, has been propped by violence ever since. I use strong language, but only what the occasion requires. As a Senator, as a patriot, I cannot see my country suffer in its good name without an earnest effort to save it.

The negotiation for annexation began with a person known as Buenaventura Baez. All the evidence, official and unofficial, shows him to be a political jockey. But he could do little alone; he had about him two other political jockeys, Cazneau and Fabens; and these three together, a precious copartnership, seduced into their firm a young officer of ours, who entitles himself "aid-de-camp to the President of the United States." Together they got up what was entitled a protocol, in which the young officer entitling himself aid-de-camp to the President proceeded to make certain promises for the President.

Senator Sumner declared that the protocol was illegal, since the title of "aid-de-camp to the President" does not appear in the Constitution or the diplomatic statutes of the United States, and the duties of an "aid-de-camp" are, by general usage, incompatible with those of a commissioner.

The assumption of this exalted and exceptional character by this young officer shows at least his inexperience in diplomacy. However, he assumed it; and it doubtless produced a great effect with Baez, Cazneau, and Fabens, the three confederates. They were doubtless pleased with the distinction. It helped on the plan they were engineering.

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part played by the American Government. Baez has been treated as you fear Bismarck may treat Louis Napoleon. You call him "president"; they call him down there "dictator"; better call him "emperor," and then the parallel will be complete. He is sustained in power by the Government of the United States that he may betray his country. Such is the fact, and I challenge any Senator to deny it. I submit myself to question, and I challenge the Senator from Indiana [Mr. Morton], who, as I have already said, champions this proposition, to deny it.

SENATOR MORTON.—If this commission go down there they can return an answer to all these broad statements of the Senator, whether they are true or not. The Senator understands that; but I wish to ask him if he does not know that in answer to all this that he is talking about it has been urged that all parties in San Domingo, whether they are for Baez or Cabral, or whoever they are for, are for annexation? If that is true, all this is utterly immaterial except as something thrown in to obscure this subject before the public. I aver—and the commission will show it—that all parties, whether against the Baez government or for it, are equally for annexation, and if that is true all this is frivolous.

SENATOR SUMNER.—Mr. President, I alluded yesterday to the late prime minister of France [M. Ollivier], who accepted war "with a light heart." The Senator from Indiana speaks in the same vein. He says that my allegation is "frivolous." Sir, never was there a more important allegation brought forward in this chamber. Frivolous! Is it frivolous when I see the flag of my country prostituted to an act of wrong? Is it frivolous when I see the mighty power of this Republic degraded to an act of oppression? Nothing frivolous—

SENATOR EDMUNDS.—What do you say as to the point, what are the wishes of the people of that country?

SENATOR SUMNER.—Let me finish; I was in the midst of a sentence.

SENATOR EDMUNDS.—I wish to apologize to my distinguished friend from Massachusetts. I understood him to challenge inquiry, and I asked him therefore in a friendly way to state to us the point that the Senator from Indiana made to him as to what he believed the sentiments of the people there to be.

SENATOR SUMNER.—The Senator interrupted me in the midst of a sentence.

SENATOR EDMUNDS.—Very well; I apologize and subside.

SENATOR SUMNER.—I am perfectly willing to yield to the

Senator if he wishes to speak, and I will speak when he is through.

SENATOR EDMUNDS.—By no means. The Senator from Massachusetts challenged anybody to ask him a question, and I in my own way ventured that very thing, and my friend, instead of answering it, flies into a passion because I did so.

SENATOR SUMNER.—Not at all; I said the Senator interrupted me while I was answering the Senator from Indiana, and in the midst of a sentence. I had proposed to proceed still further if I can have the permission of my excellent friend, the Senator from Vermont. I was remarking on the charge of frivolity—perhaps the Senator wishes me to finish on that head; I had not finished. I say that there is nothing frivolous in the suggestion; I say that it is grave. It is too grave; it is oppressive to this Government and this country. The Senator from Indiana asks, why not send out this commission? I say, why send them out when we now have in the archives of this Republic evidence that this very man is sustained in power by the naval force of the United States? Can you send out a commission under such circumstances without making yourself a party to the transaction?

And now I answer still further. The Senator asks if I am not aware that all persons there are in favor of annexation. I answer categorically, no; I am not aware of it. I understand the contrary. I have at least as good information as any accessible during the last week, and it is not four days old, just to the contrary. There are two chieftains in Dominica—one the political jockey with whom our Government has united and who is now sustained in power by our naval force, and the other is Cabral, who, as I have been assured by one who is bound to be well informed, represents the people of his country. Some time ago Cabral favored the sale of the bay of Samana to the United States; but I have been assured that he has never favored annexation to the United States. I am assured that his policy is to bring the two Governments of Dominica and Hayti once more together, as they were down to the revolution and war which lasted from 1846 to 1848, terminating in the uncertain independence of the Dominican part of the island.

Suppose during our Civil War Louis Napoleon, in an evil hour, had undertaken to set up Jefferson Davis as the head of this Government, and then to make a treaty with him by which Texas, said to have been much coveted by the emperor, should be yielded and become part of Mexico, which itself was to become more or less part of France. Would not our blood

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All this is aggravated when we consider the relations between Dominica and Hayti, and bring this incredible transaction to the touchstone of international law. Dominica and Hayti became one under President Boyer in 1823, and the whole island continued as a unit until 1844, when Dominica rose against Hayti, and, after a bloody conflict of four years, in 1848 succeeded in securing its independence.

In 1838, while the two constituted one, a treaty was made with France, by which the Haytian Government agreed to pay, in certain annual installments, the sum of 60,000,000 francs. Since the separation of the two, Hayti has proceeded with those payments, and I think the Senator over the way will not deny that there is at least ground of claim on the part of Hayti against Dominica for contribution to those payments.

Senator Morton here claimed that this 60,000,000 francs was for spoliation upon the property of French citizens in Hayti.

Senator Sumner replied that nothing was said in the treaty with the United States about the consideration for the payments.

Senator Morton replied that the history of the transaction showed it.

SENATOR SUMNER.—History shows, however, that the two governments were one at this time, and I have to submit that there is at least a question whether Dominica is not liable to Hayti on that account. I mention this that you may see the relation between the two governments.

But this is not all. Besides the treaty with France, there is another between Hayti and Dominica.

Now, the point which I wish to present to the Senate and to impress is that Hayti having these claims on Dominica is interdicted from their pursuit by an American commodore.

The President's treaty had no effect until ratified by the Senate, and every attempt at jurisdiction in those waters was a usurpation and an act of violence; I think I should not go too far if I said it was an act of war.

Those waters were as sacred as the waters about France or about England. He might as well have penetrated the ports of either of those countries and launched his menace there as have penetrated the waters of this weak power and launched his menace.

boil? Would it be commended at all because we were told that there were large numbers in the Southern States who favored it? Would not the transaction be considered intolerable? And yet this is precisely what the United States are now doing in the bay of Samana and the port of St. Domingo.

Three ships out of the small navy of the United States are sent down to these waters to enforce this policy! If force were not to be employed why these three ships? Why the necessity of any ship?

When I think of all this accumulated power in those waters, those three vessels, with the patronage naturally incident to their presence, it is not astonishing that there is on the seaboard, immediately within their influence, a certain sentiment in favor of annexation. But when you penetrate the interior, beyond the sight of their smoke, at least beyond the influence of their money, it is otherwise. There the sentiment is adverse. There it is Cabral who prevails. So at least I am assured.

Sir, I have presented but half of this case, and perhaps the least painful part. I am now brought to another aspect of it. This naval force to which I have referred has also been directed against the neighboring republic of Hayti (the only colored government now existing in the world, a republic seeking to follow our great example) penetrating its harbors and undertaking to dictate to it what it shall do. If you will read again the reports at the Navy Department you will find that I do not overstate when I say that they have undertaken to dictate to the Government of Hayti what it should do. Nor is this all. In an unhappy moment the commodore of an American fleet, going ashore, allowed himself to insult and menace the government there, saying that if it interfered in any way with the territory of Dominica he would blow the town down. So I have been informed by one who ought to know. You look grave, sir. Well you may. I wish I could give you the official evidence on this assumption; but I am assured, on evidence that I regard as beyond question, that this incident has occurred. In what school was our commodore reared? The mother of Tittlebat Titmouse¹ told him that he must be careful never to fight with a boy of his size. An American commodore, in the same spirit, has undertaken to insult a sister republic too weak to resist. Of course, if he did this on his own motion and without instructions from Washington he ought to be removed, in my judgment, and rather than carry out such instructions he ought to have thrown his sword into the sea.

¹ A character in Samuel Warren's novel, "Ten Thousand a Year."

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It is an act of war—war, sir, made by the Executive without the consent of Congress.

In other days, to carry a project [the admission of Kansas with slavery], a President has tried to change a committee. It was James Buchanan. And now we have been called this session to witness a similar endeavor by our President. He was not satisfied with the Committee on Foreign Relations as constituted for years. He wished a change. He asked first for the removal of the chairman [Mr. Sumner]. Somebody told him that this would not be convenient. He then asked for the removal of the Senator from Missouri [Mr. Schurz], and he was told that this could not be done without affecting the German vote. He then called for the removal of my friend the Senator from New Hampshire [Mr. Patterson], who unhappily was not a German. It was finally settled that this could not be done.

I allude to these things reluctantly and only as part of the case. They illustrate the spirit we are called to encounter. They illustrate the extent to which the President has fallen into the line of bad examples.

Sir, I appeal to you, as Vice-President.¹ By official position and by well-known relations of friendship you enjoy opportunities which I entreat you to use for the good of your country, and, may I add, for the benefit of that party which has so justly honored you. Go to the President, I ask you, and address him frankly with the voice of a good friend to whom he must hearken. Counsel him not to follow the example of James Buchanan; tell him not to allow the oppression of a weak and humble people; ask him not to exercise war powers without authority of Congress, and remind him kindly that there is a grandeur in justice and peace beyond anything in material aggrandizement, beyond anything in war.

Again I return to the pending resolution, which I oppose as a new stage in the long-drawn machination. Am I wrong in holding up this negotiation, which has in it so much of violence—violence toward Dominica, violence toward Hayti? Of course the proposed treaty assumed the civil war pending in the territory annexed. No prudent man buys a lawsuit; we should buy a bloody lawsuit.

Be taught, if you please, by the experience of Spain, when in 1860 this power, on the invitation of a predecessor of Baez, undertook to play the part we are asked to play. Forts were built and troops were landed. When at last this power withdrew she had expended forty millions of hard Spanish dollars

¹ Schuyler Colfax [Ind.] was the occupant of this office.

and "sacrificed sixteen thousand of the flower of her army." Are we ready to enter upon this bloody dance? Are we ready to take up this bloody lawsuit?

Vain to set forth, as the message does, all manner of advantages, "commercially and materially." What are these if justice and humanity are sacrificed? What are these without that priceless blessing, peace? I am not insensible to the commercial and material prosperity of my country. But there is something above these. It is the honor and good name of the Republic, now darkened by an act of wrong. If this territory, so much coveted by the President, were infinitely more valuable than it is, I hope the Senate would not be tempted to obtain it by trampling on the weak and humble. Admit all that the advocates of the present scheme assert with regard to the resources of this territory, and then imagine its lofty mountains, bursting with the precious metals, its streams flowing with amber over silver sands, where every field is a garden of the Hesperides, blooming with vegetable gold, and all this is not worth the price we are now called to pay.

There is one other consideration, vast in importance and conclusive in character, to which I allude only, and that is all. The island of San Domingo, situated in tropical waters and occupied by another race, never can become a permanent possession of the United States. You may seize it by force of arms or by diplomacy, where a naval squadron does more than the minister; but the enforced jurisdiction cannot endure. Already by a higher statute is that island set apart to the colored race. It is theirs by right of possession; by their sweat and blood mingling with the soil; by tropical position; by its burning sun, and by unalterable laws of climate. Such is the ordinance of nature, which I am not the first to recognize. San Domingo is the earliest of that independent group, destined to occupy the Caribbean sea, toward which our duty is plain as the Ten Commandments. Kindness, beneficence, assistance, aid, help, protection, all that is implied in good neighborhood, these we must give, freely, bountifully; but their independence is as precious to them as is ours to us, and it is placed under the safeguard of natural laws which we cannot violate with impunity.

I conclude as I began. I protest against this resolution as another stage in a drama of blood. I protest against it in the name of justice, outraged by violence; in the name of humanity insulted; in the name of the weak trodden down; in the name of peace imperiled, and in the name of the African race, whose first effort at independence is rudely assailed.

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assertions. He states these things, he says solemnly, because he knows them to be true; but he has not favored the Senate with any evidence to sustain the most of them. Perhaps the Senator thinks that what he does not know in regard to the Republic of San Domingo is not worth knowing; but while he may know it very well, he may not be able to satisfy all the rest of us; he may not be able to satisfy the country. And now we propose a commission that shall go upon the ground and make an examination so far as it can be made, and report to us the facts, that we may judge for ourselves whether or not annexation is desirable.

Now, sir, allow me to say that nearly all the Senator's points are immaterial—immaterial to the purpose of this resolution. He has spent his force upon matters that, so far as the merits of this resolution are concerned, may be designated as frivolous, wholly unimportant. We are not now proposing to examine whether the treaty was correctly and properly negotiated. We have passed by the treaty; we are beginning *de novo*; we are proposing to examine this question as if a treaty had never been made, and we propose to go to the vital and material points in the matter, and to do that we propose to send a commission to the island, where this information is most accessible and can be most accurately obtained.

But, sir, what of the protocol? The Senator seemed to think it was a very important matter, a great lion in the way that could not be gotten over, and that rendered this resolution improper, and the interrogatories unimportant. Why, sir, he confessed himself, as I understood him, that General Babcock had made that protocol without authority; and he did do it upon his own motion, and there was nothing in his instructions that authorized him to do so; but, as all men familiar with diplomatic negotiations understand, protocols are of very common occurrence, and are always of a private character, and never constitute a part of the treaty. But as the treaty is gone, as we have passed that by, as it is merely a relic of the past, where is the importance of dwelling upon this protocol and attempting to fix crime upon the President in consequence of it? Sir, the objection is frivolous, and I pass it by.

The Senator began his speech by saying that this resolution inaugurated a "dance of blood." This was a tremendous sentence, and burst upon the Senate like a rocket in the air, which always leaves darkness just after; and I would like to inquire whether anybody was hit by the stick when it came down. And I might inquire whether blood can dance, if that was ever heard

Senator Morton replied to Senator Sumner. He repudiated the charge that he (Morton) was a confidential adviser of the President; referring to his age and extremely crippled condition (which caused him often to speak from his chair), he said that he was too old and



SELLING OUT CHEAP

[Caricature of Senator Sumner]

From the collection of the New York Historical Society

too lame to begin to act as a "go-between"—but, ever since Fort Donelson, he had been the admirer of Ulysses S. Grant, and had been constant in repelling the calumnies with which he had been assailed as no other President, perhaps, since Jefferson. He said that the assault of the Senator from Massachusetts was especially unprovoked and indefensible. It was not due to a difference of political principles, for he had charged the President with usurpation, with crime.

The argument of the Senator from Massachusetts throughout has demonstrated the necessity and the importance of this investigation. My friend has appeared upon the stand this afternoon as a witness. He has testified copiously, voluminously, and yet has scarcely produced testimony to sustain one of his

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of before; and if it can, whether his favorite and his model president, Saget, the President of Hayti, did not engage in that "dance of blood?"

Then the Senator from Massachusetts says that this commission will commit Congress to the policy of annexation. Is there one word of foundation for this statement? Is any Senator who may not favor the annexation of San Domingo under his present convictions to be frightened from voting for this resolution by the bald declaration that it commits Congress to annexation?

Then, again, he says the resolution is unnecessary because the President has full power to appoint the commissioners without it. Why, this is a most astonishing argument! After having pressed upon us with great force that the appointment of Babcock was a usurpation, and that his negotiation was a crime, the Senator comes back and tells us that this commission is wholly unnecessary, the President has power to appoint commissioners without any act of Congress to go there and do all that we propose they shall do, and even more!

Why, sir, suppose the President had taken that authority without consulting us, would he not have been denounced fiercely for usurpation? Would this commission not have been denounced as a mere private agency on his part—and so it would have been—for the purpose of aiding him in a most iniquitous scheme? No, sir; we took a different view of it; and the President, allow me to say, has no power to appoint a commission like this; he has no power to provide a secretary; he has no power to make the provisions that are contained in this resolution.

Then, again, the Senator calls Baez, Cabral, Fabens, and Babcock jockeys—

SENATOR SUMNER.—Not Cabral; Cazneau.

SENATOR MORTON.—Ah! not Cabral; that revolutionist is in favor, is he? A mere adventurer who for the last two years has not had four hundred men under his command at any time, and has kept himself in the mountains of Hayti, and has not been in Dominica except upon one occasion, when he was immediately driven back. Why, sir, he is a mere commander of banditti who does not and has not endangered the government of Baez; but he has all the time been presented in the consideration of this question as a formidable leader, with great strength behind him, and not to be resisted except by the naval force that the President has put at the command of Baez to keep him in power!

The Senator charges that we have kept Baez in power by

three ships of war stationed upon that coast, and that the treaty was negotiated under the guns of that fleet. Admiral Poor has been denounced in the bitterest terms for his conduct in regard to Dominica and Hayti. Why, sir, I should regard this as a very serious statement if it did not appear to me to be ridiculous. With all respect to the distinguished Senator from Massachusetts, it seems to me that he has overdrawn this thing in a manner that can only be described as ridiculous or ludicrous. These revolutionists are not seagoing people. They have no fleet. Their field of operations, small as it is, is inland and among the mountains. But they have been kept in subjection by the three frigates of Admiral Poor! We must understand that the admiral has marched those frigates across the island and through the mountains, doubtless with a large crew of horse marines, that have kept this Cabral and his powerful army under subjection!

Mr. President, the truth is simple; it lies upon the surface; I have been long satisfied with it; and I confess to you that, so far as I am concerned, I do not require the investigation on many of these points to satisfy my mind. But while I may be satisfied others may not be. The great truth is that men of all parties in San Domingo are in favor of annexation; that the followers even of Cabral are for it, and that Cabral himself has been in favor, and is now in favor, of annexation. He undoubtedly would like to make the treaty or to conclude the negotiations, instead of Baez.

Even the people of Hayti are in favor of annexation. Only a few months ago we had Mr. Tait here, an able, educated, and intelligent man, the minister from Hayti sent by the Salmave government. He stated that the people of Hayti, the great majority, were in favor of annexation; and that they were in favor of the annexation of Dominica to the United States because they hoped that would be the precursor of their own annexation. But Salmave was murdered in cold blood; and the wretched and desperate military adventurer, the model president of the Senator from Massachusetts, when he came into power, for some reason desired to interpose an objection to the annexation of Dominica to the United States. I am told—I do not know how true it is, but it is stated in the papers, and the Senator has evidently great faith in what is stated in the papers from the reference he made to myself—that the minister of Saget, the blood-stained president, or dictator, I should say, of Hayti, had no more knowledge of his duties than to send an impertinent note to our Secretary of State remonstrating against

what the President of the United States had said in his message, and that he was promptly rebuked for his ignorance and his insolence by our Secretary of State, and I believe has apologized.

Then the Senator says that the President tried to get him and the Senator from New Hampshire [Mr. Patterson] off the Committee on Foreign Relations. I would like to know who it is informed the Senator of that fact. Who is his authority? Who is so familiar with the President as to obtain the expression of his secret desires, his secret operations, and then goes and informs the Senator from Massachusetts? I undertake to say that he is mistaken.

Mr. President, the annexation of San Domingo will come. I prophesy here to-night that it will come. It may not come in the time of General Grant, or in my time; but I believe it is destined to come; and with it, too, the annexation of Cuba and Porto Rico. Why, sir, this thing was foreseen long ago.

San Domingo is the richest piece of earth. Why, sir, it is a great natural cabinet of all the choicest productions of the world; and San Domingo alone, which if we get it will cost us but very little, is worth to us, commercially, socially, and in every other way, fifty Alaskas, for the acquisition of which my friend from Massachusetts was greatly in earnest, and in the bringing about of which he had a large influence.

But I know there is talk about the populations of these countries. Sir, they are friendly to us now, and will rapidly incorporate and consolidate with the people of this nation in case of acquisition. They will become consolidated and absorbed in this great people long before the people of Canada will be converted to annexation. The Senator from Massachusetts is greatly in favor of the acquisition of all the Canadas, and I shall be, too, when the time comes; but I tell him that the most unreasonable, the most unconquerable, and obstinate thing in this world is a British prejudice, and that the people of Canada are further from us to-day, and are less inclined to annexation at this time, than they were thirty years ago. When they are ready to come peaceably, and are anxious for it, I am ready to receive them; but the line of demarcation between them and us in point of feeling and sentiment would still remain distinct long after that between us and the people of San Domingo and Cuba would be obliterated.

I remember, when the proposition was made to annex California and New Mexico, what fearful pictures were drawn of the character of the New Mexican population, and yet there is

not to-day a more loyal people to this Government than the people of New Mexico.

JAMES W. NYE [Nev.].—I submit the question to the country whether the honorable Senator to-day in his speech treated the President with that fairness with which I would have him treated by everybody. There are certain characters that have been so luminous by deeds of bravery and of patriotism as to attract attention and stand out preëminently in advance of their fellows. Two such characters are the President of the United States and the honorable Senator from Massachusetts. Do what he may, cut down this friend or the other, I shall remember the glory that has clustered around him and the triumphs that he has won, and nothing shall extract from me an expression of unkindness toward him. While I glory in his independence, I glory likewise in the independence of those who differ in opinion from him. Sometimes long series of successes to those who have been in the habit of leading make it appear an offence for a person to differ with them. I do not know but that may be slightly the case with my honorable friend. He has led us through a terrible labyrinth. But other questions have sprung up on which minds differ, and I do not know but that he feels as though we all ought to bow down to him as we did upon the great measure that he made the specialty of his life. Sir, did it not involve a principle, I would always do it with deference to his superior judgment.

But, sir, we are told that the people of this country are opposed to Dominican annexation. If so, they want the information which we seek. Is there any better way? Not at all. If the honorable Senator desires to share further in this matter let him be a commissioner and go himself, and he will come back with a new song in his mouth, I will warrant you. So apparently blind to everything else, he seems to think that the President reached out after him to remove him from the Committee on Foreign Relations. This mysterious knowledge; this knowledge that is not for the public; this knowledge that one keeps so sacred that he will not even tell the body that he asks to act upon it—what is it except that he has been told so and so? Sir, what have you been told a thousand times; what have all of us been told? And when we came down to the fact the teller was the inventor of the tale. Do you suppose that if I should hear to-morrow that my friend was longing for the blood of the President I would believe it? [Laughter.] No, sir; the only place where he uses blood is in a "dance." [Laughter.] Visions of danger are floating about him when he is as safe as

the babe in its mother's arms. It only shows what a heightened, quickened fancy can imagine. Everything is wrong because the President of the United States is in favor of annexing San Domingo, and not a creature that his fancy can create but what starts at his bidding! I advise my friend to just take a little of Radway's Ready Relief [laughter] get a sound sleep, and all these fancies will flee away to the source from whence they came.

The honorable Senator is not quite content in swinging his saber in a threatening attitude over the head of the President, but he attacks with more ferocity still what he terms the *aid-de-kong*—that is the French of it, I suppose; we call it in plain English *aid-de-camp*. Now, sir, because in this protocol, as it is called, evidently drawn by Mr. Gautier, in which he describes this man as *aid-de-camp* of the President, fancy is on its wheels; here is a regal power, the President has got an *aid-de-camp*, and the Senator inquires whether in the Constitution or laws there is such an office! I answer no, there is no such office; but a man of tinsel put it in; but when Mr. Babcock comes to sign his name, he signs it plain "Orville E. Babcock." But my friend says—now comes the lawyer—that the description in a deed is what gives it character.

Suppose I should, in a deed that I was going to execute to my friend, describe him as "Charles Sumner, the greatest of living American statesmen," would it vitiate the deed? [Laughter.] Suppose I should say "Charles Sumner, the leading abolitionist in America," would that vitiate the deed? Suppose I should say "the man who had military aspirations, but never gratified them," would that vitiate the deed? [Laughter.] There is anarchy, there is usurpation; consult the Constitution, consult the law, says the honorable Senator, and see if you can find such a thing! We all knew before he told us that there was not any such thing there. He puts up an image to combat when there is no image there.

"Optics nice it takes, I ween,
To see what is not to be seen."

The Senator tries to make out a case not only upon broad grounds, but upon little specialties on which he dwells with a relish equalled only by those who like to feed on rottenness, as elements of the criminality of the President of the United States. Sir, before some country justice of the peace that might do in an early day; but it will not do in this day of light and intelligence. It is reaching out after something that does not exist and magnifying a mole hill into a mountain. Upon such

authority he hurls the dart of his power against the President of the United States. It may do for Sumner, but it would not do for me.

Now, sir, the treaty to which this was a protocol is dead through the instrumentality of its most polite executioner, the honorable Senator himself. Why resurrect that? This inquiry is not in relation to that treaty. Why stand here and pound a corpse? That treaty is dead. My friend seems desirous of convincing us that there is punishment after death, and he goes after that dead treaty. [Laughter.]

I complain that in the discussion upon this question of reference the honorable Senator from Massachusetts has seized upon an occasion to do what will be painful to him to his last day; he has seized upon this occasion to strike so high that the bow which he drew with such terrific power will not have strength enough in it to carry the arrow to the mark. No, sir; he will stand to-day and for all time as the boldest among the bold of the champions of human freedom. He will stand as spotless as the mountain snow of anything of crime within the memory of all of us who know him. Pure as is the honorable Senator from Massachusetts, equally pure is the President of the United States, and he would shrink from the commission of a crime with all the sensitiveness that the fine feeling of the honorable Senator from Massachusetts would.

My friend had a beautiful conclusion! And you know, Mr. President, that no man rounds his periods so beautifully as my friend; he rolls up in colossal forms his figures and caps them with the finest specimens of eloquence. In his conclusion he said that he did not stand here to oppose this measure simply upon such and such grounds, but, rising to his enormous fullness of stature, he declared that he did it in behalf of humanity. Sir, what is the true course of humanity to pursue? To stop the effusion of blood there. His description of the effect of our flag there was a tribute that it never received before. Its simple presence was the harbinger of peace; and the bugle of Cabral and the turbulence, if you please, of Baez were hushed before the power of that flag.

But my friend asks why are ships of war there but for a menace? Sir, we float our ships in the Mediterranean. Whom are we menacing there? Why do our ships float in the southern Atlantic, along the whole line of coast of other governments? They are patrolling the seas as watchmen, vigilant and faithful on their course. Why were our ships found weighing up to Alaska, when it was not ours, but Russia's? To see, as with

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THE VICE-PRESIDENT.—The chair desires to state to the Senator from Michigan that he doubts whether the word "brutal" is proper to be applied to a speech made by a Senator.

SENATOR CHANDLER.—I will change the language to make it as strong as I can and still have it parliamentary. [Laughter.] Mr. President, it would hardly be supposed from what fell from the lips of the Senator from Massachusetts to-day that he was the first Senator consulted by the President upon the subject of the San Domingo treaty. And yet such is the fact.

SENATOR SUMNER.—After the treaty was signed.

SENATOR CHANDLER.—The first Senator consulted after the treaty was signed was the Senator from Massachusetts, and he certainly left upon the mind of the President the impression that he was favorably disposed toward that treaty. I will read here two or three extracts from the letters of two individuals to this effect.

Here he read extracts from letters of General Babcock and others.

The Senator from Massachusetts is to go down in history beside President Grant as a statesman. President Grant will live in the memory of his countrymen and his laurels will be fresh and green when the Senator from Massachusetts will be forgotten. But, sir, as statesmen they are to go down in history, and what do they present as their trophies? The Senator from Massachusetts marches up to the front with what? With the north pole on his shoulder and an iceberg by his side, and there is the result of his statesmanship. But the President of the United States comes with the islands of the Gulf and untold millions of wealth. There are the results of two specimens of statesmanship.

Sir, I am willing to compare those trophies side by side. We all remember the tremendous effort made by the Senator from Massachusetts last winter to get up an expedition to the north pole, and we all remember with what wonderful skill and power he advocated paying \$7,200,000 in gold for Alaska, and now the result of his statesmanship is the north pole and an iceberg. The result of the President's statesmanship will be the islands of the Antilles and untold wealth to this great nation.

Mr. President, there are critical periods in human life. Children sometimes die at the teething age. If they pass through that age they may grow to manhood; but that is the trying time with the infant. Sir, there is also a trying time in the lives

the eye of the eagle, the approach of any threatened danger to our country. Why do our ships go everywhere? Why are they seen in the Bosphorus? They are seen there as missionaries of our country, bearing the flag of joy and peace wherever they go. They are seen at Samana under the same commission; they are seen at San Domingo under the same commission; they are seen at Havana under the same commission, and from time to time at every other port of the known world. Sir, it is the glory of this country that her ships penetrate every nook and corner of the inhabitable world to guard and protect her commerce, to give evidence to other nations that the eyes of the American people are on their citizens everywhere. Seek other cause than that to show crime on the part of the President. I hope what the honorable Senator has said is true, that our vigilance has stayed the hands of the bloodthirsty there; and humanity, if it could speak, should thank us instead of charging it as a crime upon the President. In the name of humanity I rejoice at it, and in the name of justice the world will rejoice.

Zachariah Chandler [Mich.] called upon Senator Sumner for his authority for his statement that the President desired his (Sumner's) removal from the Committee on Foreign Relations. Senator Sumner replied that his informant was a certain Senator to whom the President had expressed that desire, but that he refused to give the Senator's name. Then, said Senator Chandler, you had no right to make the charge.

Mr. President, we have had to-day the most extraordinary exhibition that ever has taken place upon the floor of this body since I have had the honor to be a member of it. I have had the honor of a seat in this body for nearly fourteen years, and never during that time, in all the heat of political antagonism, never during the war, never before the war, have I heard so brutal an assault made upon any President of the United States as was made upon President Grant to-day in this body. This morning when the Senator denied that he had ever used a disrespectful word in secret session with regard to the President, and called upon any member of this body to contradict him if it were not so, I did not feel at liberty to rise in my seat and contradict him. But I desire to say now that his speech in secret session substantially corresponds with his speech to-day in open session, so far as the scope and spirit of it were concerned, toward the President; and there I leave it.

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of public men, and if they pass that, they may live into a green old age. That fatal age is from sixty-two to sixty-five. It is the age when men are bitten with the presidential mania, and once bitten there is no cure. They die of that disease; there is no remedy.

We have had eminent examples of that description. You remember, sir, that the honorable Senator from New York—I allude to Mr. Seward—who, perhaps, had more power in this body, more power throughout the country, more popularity than any other man of his generation, was a candidate for the Presidency; and, when Mr. Lincoln obtained the nomination, he turned his back upon his old associates, never doubting but that with his tremendous power and influence, his overshadowing talent, he could at least divide the Republican party and insure a victory to its enemies. In 1862 they formed a Union party, and Mr. Seward, seduced by the hope that the Democracy would take him up in case he was dropped by the Republicans, marched over into the ranks of the enemy, and he took one vote and no more. He went down, and there was not a ripple upon the surface of the water where he went under.

A few years later another eminent statesman [Salmon P. Chase], who thought he was entitled to a presidential nomination, was disappointed. He made his appearance at the door of the Republican convention, but did not receive the nomination, and in a few days he was rapping at the door of the Democratic convention. He went out; and he, too, took one vote, and no more. Both of them had a tremendous power while they were coöperating with their friends and with their party organization; but the moment they left their party they ceased to be a power at all. And now the honorable Senator from Massachusetts, not profiting by experience, has made up his mind that with his great power, his vast influence, he can do almost anything he pleases. Well, sir, he can, inside of the Republican party; but when he organizes his troops on the other side of the chamber, when the honorable Senator from Ohio [Mr. Thurman] marches to the bugle call of Charles Sumner, when the honorable Senators from Delaware fall into line and dress at his command, he will not have a large force, and will increase their present numbers just one. The line will not be long; it will be easily handled.

SENATOR SUMNER.—When Charles Sumner finds the Senators over the way ranging under his banner, as the Senator predicts, this country will be regenerated, for the Democratic party will be Republican.

The Senator here [Mr. Nye] says, and the Senator over the way [Mr. Norton], I think, said the same thing, that I have assailed the President. I have done no such thing. I alluded to the President as little as possible, and never except in strict subordination to the main question. On this question of annexation I feel strongly; not, as the Senator [Mr. Nye] has most uncandidly suggested, from any pride of opinion, or because I have already expressed myself one way and the President another, but because for long years I have felt strongly always when human rights are assailed. I cannot see the humble crushed without my best endeavor against the wrong. Long ago I read those proud words by which Rome in her glory was described, as making it her business to spare the humble, but to war down the proud. I felt that we had before us a case where the rule was reversed, and in an unhappy hour our Government was warring down the humble. So it seemed to me on the evidence.

Do I err? Then set the facts before the people that they may judge; but as I understand those facts, whether from official documents or from the testimony of officers or citizens who have been in that island latterly, Baez has been maintained in power by the arms of the United States. Correct me if I am wrong; but if the facts be as I believe, you must leave me to my judgment upon them.

ROSCOE CONKLING [N. Y.].—Mr. President, during this debate I have held my peace till now. I should be silent still but for the violence done this day to justice and to fairness, but for the wrong heaped upon one, foremost, not in the easy greatness of things written and said, but in the arduous greatness of things done; one who has excelled not in swollen periods, but in brave, honest deeds which have covered his name with imperishable renown. Injury and affront have been offered grievously to several, but especially to him who stands not only in his own right as a citizen, not only as the head of a great party to which a majority of the members of this body belong, but as the Chief Magistrate of the nation; and in the last character his position gives him in American esteem official primacy in the world. How comes "back-wounding calumny," intrenched behind parliamentary privilege, to strive in our very presence to soil his personal and official fame? What relation has envenomed aspersion of the President to the business which the Senate considers now?

It is notorious that a treaty was last year negotiated for the annexation of San Domingo. It is notorious that that treaty

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"Mr. Sumner said: 'Those young military men whom the President had gathered around him or in his actual Cabinet, by what warrant it was difficult to say, had taken a notion that there was a good speculation in that quarter, and Grant had, honestly enough, been persuaded into their scheme. Why, a friend of mine, who has been down there, says that the whole coast of the bay of Samana is staked off into lots, and marked "Cazneau" and "Babcock" and "Baez," and that one or two particularly large ones are marked "Grant."'"

That statement, borne upon the wings of the press, has gone to be read from sea to sea. And yet, sir, the alleged author of that blasting statement is chief among those who rise in this chamber to deny to the President of the United States the privilege of sending, without cost beyond expenses, a commission of intelligent and unbiased men to report whether it be true that aggravated and agglomerated fraud besmears the treaty and the very soil of Samana.

Turn to some of the accusations hurled to-day at the President. The Senator said the negotiation of the treaty was managed by violence throughout; he said it was "propped" by violence throughout; and at that point he added, "This I aver"; "go and ask any resident in San Domingo, and he will tell you that it is true." And yet he, the man who again to-day speaking, as John Quincy Adams once said, that the nation may hear—he who thus speaking reiterates this charge of fraud and violence against the President and against those who were his agents, in the same breath denies a cheap and simple test of truth which might overthrow this malignant charge, a charge in regard to which the Senator says you have only to send witnesses to San Domingo, and every resident there will assure them it is true.

The next point upon which the Senator rose to excessive altitude was the verbal error in a memorandum referred to so properly by the Senator from Nevada: a Spaniard had described General Babcock as an aid-de-camp. I am not going to stop upon that point. It was eminently dramatic. It had well-nigh drowned the stage with tears; for it was at that point that, pausing with spectacular effect, the honorable member, addressing you, sir, exclaimed, "I see, sir, that you look grave." [Laughter.] It must have been the homage which civility pays to an occasion, it was the decorum which the Vice-President wears in his chair, if he could look grave when before a tribunal like this, trying such a cause as this, such a fact is adduced and spun out into dismal argument!

The Senator then again repeated that Baez had been sustained, and was now sustained, by an act of usurpation and by

was challenged upon the ground that it was ushered in without adequate information.

So much, I say, is notorious, and light was loudly demanded. Nay, it was insisted by the enemies of the treaty, specifically, that a commission to view, explore, and report should be sent to San Domingo. This is not all. Loathsome charges were sown broadcast throughout the land. It was alleged that the treaty was hedged about with jobs on every side. It was said that fraud had suffocated the very right. Lands were said to have been staked off and labeled with the names of those responsible for the treaty; and it was whispered that the restless foot of guilty and venal adventure had been set upon the soil of Samana. These unclean vaporings were breathed upon the Chief Magistrate and upon members of his official family. Now the Chief Magistrate comes, assuming that he approves the pending resolution, asking Congress for what? For annexation? No, sir. For a committal to a scheme of annexation? No, sir. But to allow disinterested witnesses to visit San Domingo and bring back intelligence which may show that the President and others have been assailed, not with the weapons of the warrior, but with the weapons of the assassin.

Who rises in this chamber to deny to the Chief Magistrate and his subordinates this culprit's right? Who rises here to say that he shall not cleanse his official household from the stains sought to be put upon it? Does any known friend of the President rise to say these shafts have fallen harmless at his feet and he need not condescend to notice the aspersions which have been cast upon him? That would be a friendly office. But no Senator kind or considerate toward the President comes forward with objection. Who comes? Who heads to-day's hunt? The honorable member from Massachusetts. Who is he that he should do it? What relation does he sustain which mitigates the indelicacy and the wrong of his doing it? How can it be decorous or tolerable in him to object to full investigation of the condition of San Domingo, and of the circumstances attending its proposed acquisition?

Sir, the member to whom I refer would have come too late, had he come to-day, to deny that he himself is conspicuous among the authors of the aspersions aimed at the President of the United States.

On November 2, 1869, the following "interview" with Senator Sumner appeared in a Chicago paper. It has not been challenged by the Senator.

The reporter alluded to the subject of San Domingo:

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the presence of an armed force. He spoke of it as a crime; and afterward he denied the assertion of the Senator from Michigan that he had assailed the President of the United States. Why, sir, if the charges made by the Senator to-day against the President be true, it would be necessary to convict him of being a fool in order to acquit him of being a knave. And yet the honorable member from Massachusetts says he has said no word against the President!

The Senator then proceeded to say, with a positiveness singular under the circumstances, that the President of the United States imitated, and I think he intimated outran, the worst acts of James Buchanan.

SENATOR SUMNER.—No, no.

SENATOR CONKLING.—The Senator shakes his head, and says "no" in his seat. I listened carefully to his statement. He was not borne upon the heady currents of debate. He spoke with premeditated design and careful preparation.

He said that the President had followed Mr. Buchanan's example in attempting to change the Committee on Foreign Relations. I allude to that statement to say that I do not know it to be true, but believe it to be false; and speaking for myself, upon my own responsibility, I say that the time has come when the Republican majority here owes it to itself to see that the Committee on Foreign Relations is reorganized and no longer led by a Senator who has launched against the Administration an assault more bitter than has proceeded from any Democratic member of this body. I say for myself that it is fit in this epoch of international commotion that the committee of this body having charge of our foreign relations shall be so composed that the President of the United States, without personal degradation, without self-abasement, and with self-respect, can go to the chairman, or send for him and hold converse with him, receiving candid and frank treatment.¹

I am not anxious for one, to commit myself to the annexation of San Domingo. I shall endeavor to exercise the intelligence not only, but the independence, to vote upon that question, should it be presented, in the light of all the circumstances which surround it. I am not anxious to debate the merits of San Domingo now. And yet I cannot shut my eyes to some facts which I can state in a moment. I cannot forget that upward of \$58,000,000 of imports come here annually from Cuba, wrung from slave labor. I cannot forget that seventy per cent.

¹ Senator Conkling's views were followed out, and Senator Sumner was left off the committee at its next formation.

of the commerce of Cuba is with us. I cannot forget that the coffee of Brazil, grown by slaves, nearly all of it comes here. I can never forget that the slave trade, flourishing in Cuba and for Cuba, rode the seas until 1861 under the stolen protection of the starry banner of the Republic; and in that connection I cannot shut my eyes to the fact that if this commission shall corroborate the tidings that we have of the condition, the soil, the climate, and the capacities of San Domingo, by its acquisition we can at once provide ourselves by the medium of free labor with the sugar and the coffee, the products of Cuba and Brazil, and take a long stride on the path which marks the civilization of the world and the melioration of humanity and its wrongs.

But, sir, as I say, I have no wish to anticipate this inquiry. The question which addresses itself to us is widely different. Those who urge this resolution protest against deciding the cause and then trying it afterward, or not trying it at all. That is the issue; and if political effect is to be given in consequence of the essay of the Senator from Massachusetts, or of the speeches upon the other side of this chamber in denunciation of the supposition that a Republican Administration is looking for territory in the Gulf of Mexico, so be it. We will argue that question in the appropriate forum with our opponents and the allies who have recently joined them; and when we do, we will go back in history; we will go back to the time when James Buchanan, John Y. Mason, August Belmont, and Pierre Soulé, assembled at the tomb of Charlemagne and proclaimed the Ostend manifesto. We will go back to the time when it was Democratic doctrine, not only that we needed empire in the tropics, not only that we longed for the West Indian islands, but that the Queen of the Antilles was so essential to us that, falling back on the elementary doctrine of self-preservation, we would assert Rob Roy's right, assert the dogma that might makes right, and, in the language of Mr. Soulé, responding to a serenade in the city of New York, "tear it by force from the old Spanish wolf." That was commendable Democratic doctrine in those days, yet Democrats are against honest purchase now. We will argue before that great jury, too numerous to be packed and too virtuous to be bribed, the question whether in this day it is safe honestly, economically, cheaply to oppose free labor in San Domingo to the slave labor of the cane fields of Cuba, and whether in truth, if this island proves of the value and abounding in the promises ascribed to it, it is wise or otherwise that we acquire it.

But, sir, that question in its political bearings is not here.

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language and with precisely the same meaning any agitation whatever of the subject of slavery or the abolition thereof. But there was one man in the Senate of the United States that day, and but one, who repudiated both platforms and both candidates; and that man was Charles Sumner. I see him standing in the Senate chamber then without a single follower. He had no ten men, the number of the Democrats here, to dress into line then; he had nobody but himself, and I have lived to see the day when sixty Senators of the Republican party, the Senator from Michigan among them, too, were following in his footsteps with the most implicit obedience.

Where then were you who now talk of nothing but freedom? Where then were you who now boast of the enfranchisement of the African race? Where then were you who are so ready to denounce any man that ever stood up for the institutions of the country, or at least sought to prevent the country from being ruined by their disturbance? Where were you, Republican Senators, in the year 1852, when the Senator from Massachusetts stood, if not solitary, at least alone? Where were you? One half of you, or nearly so, voting for Franklin Pierce, and the rest of you for Winfield Scott.

Now, I am not here to defend the Senator from Massachusetts. He is quite able to defend himself. I am not here to nominate him as commander-in-chief of this little body of Democrats. I do not think they want his leadership, and I do not think he seeks the command. But when he is reproached with the small number of his followers, with the number ten, I call the attention of the Senate to the fact that eighteen years ago he had not one-tenth of ten to follow him, although since that he has had six times ten to obey his commands.

But, again, is there nobody in this chamber who concurs in the opposition of the Senator from Massachusetts to the annexation of San Domingo but this little band of ten Democrats? Are we all? If that be the case, why was not the treaty ratified? If "shoot the deserters" be the word; if "scalp those who do not march with perfect fidelity at the command of the President of the United States" be the order of the day, why is it that the Senator from Massachusetts alone is assaulted, and all those who concurred with him in opposing the ratification of the treaty and now concur with him in opposition to this resolution, members of the Republican party, Republican Senators, are left without assault, and that no scalp of theirs is taken from their heads?

If the result of this discussion and of the vote on this reso-

The question for any purpose whatever is not here. The simple question is whether we will consent to an impartial inquiry.

Mr. President, well is it for the President of the United States, if he be sensitive touching the licentious tongues of his fellow-countrymen, that he did not presume so far as to act on what I think I have heard denominated personal government, as to undertake, without the assent or the authority of Congress, to send commissioners to San Domingo. This chamber would not have been large enough to hold the sound or the reverberations of that sound with which denunciations would have rolled against such an act. Cautious as he has ever been, gifted not only with sight but with insight, he judged, I think, wisely in not hazarding upon the borders of his power an act of his own to accomplish this purpose.

There is no trick underneath this proposition. It is a respect and constitutional deference to Congress. I assume that the President does approve this resolution; I will assume that it is couched in the very words, if you please, in which he would approve it; and then I say it is the decorous, constitutional mode of reaching the end in view. It is the proper way of establishing for the credit of the American name, not to speak of individuals, the falsehood, if they be false, of those accusations which have darkened the air since the original treaty was negotiated. It is the mode at the same time of bringing to us that information, without which the Senate once acted, that information the want of which was trumpeted throughout the land as the fatal vice in the treaty; that information which will enable us to speak with intelligence upon a grave national question.

Senator Thurman rose in defence of Senator Sumner.

The Senator from Michigan [Mr. Chandler] was pleased to tell the Senator from Massachusetts that when he came to train this little body of Democrats here it would not be a very difficult task, that there were not so many of them but that he might dress them in line without any very great military genius to enable him to do so. When the Senator made that remark my memory took me back eighteen years to the memorable year 1852. There was a presidential election that year. There were two candidates, the Whig candidate, General Winfield Scott, the Democratic candidate, General Franklin Pierce. They stood upon platforms that in one particular had no essential difference whatever; platforms that denounced in almost the same

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lution is to be the condemnation of Charles Sumner, it is to be the condemnation of a score of Republicans who stand by his side in this controversy. If you are ready to shoot the deserters, or if you are ready to expel them from your ranks, gentlemen, do it as soon as you please. Your party has opened wide arms to deserters; you have looked no gift horses in the mouth; you have taken everything that came, whether halt, lame, or blind. Perhaps we may be as charitable to you [laughter], and when you begin that expulsion which seems to be the order of the day and inaugurated to-night I believe we shall not put you upon too much penance if we only have some reason to hope that you will train with some little degree of fidelity in the Democratic ranks.

Senator Thurman closed by giving his reasons why he was opposed to the annexation of Dominica.

It is because I am opposed to acquiring Hayti [the other part of the island] by force or by fraud; because I am opposed to an increase of the army and the navy; because I am opposed to increasing the expenses of the Government, and because I am opposed to taking any further step in what I think, with all deference to others, is the downward road we are treading toward a consolidated despotism in this land, that I must give my vote at every stage of the case, from first to last, against all propositions that look to the annexation of Dominica.

The joint resolution was passed by 32 yeas, 9 nays. On January 9, 1871, the resolution was brought before the House. Jacob A. Ambler [O.] moved the following amendment:

Provided, That nothing in this resolution contained shall be held, understood, or construed as committing Congress to the policy of annexing the territory of said republic of Dominica.

After considerable discussion this amendment was adopted on January 10 by a vote of 108 yeas, 76 nays; and the resolution was passed by a vote of 123 yeas, 63 nays.

The Senate concurred in the House amendment on January 11 by a vote of 57 yeas and 0 nays. The joint resolution was signed by the President on the 12th.

The President appointed on this commission: Benjamin F. Wade [O.], Andrew D. White [N. Y.], and Samuel G. Howe [Mass.]. After thorough personal investigation of the republic of Dominica they reported that it should be annexed.

In communicating the report to Congress on April 5, 1871, the President said:

The mere rejection by the Senate of a treaty negotiated by the President only indicates a difference of opinion among different departments of the Government, without touching the character or wounding the pride of either. But when such rejection takes place simultaneously with charges, openly made, of corruption on the part of the President, or of those employed by him, the case is different. Indeed, in such case the honor of the nation demands investigation. This has been accomplished by the report of the commissioners, herewith transmitted, and which fully vindicates the purity of motives and action of those who represented the United States in the negotiation. And now my task is finished, and with it ends all personal solicitude upon the subject. My duty being done, yours begins, and I gladly hand over the whole matter to the judgment of the American people and of their representatives in Congress assembled.

"In again submitting to Congress a subject upon which public sentiment has been divided, and which has been made the occasion of acrimonious debates in Congress, as well as of unjust aspersions elsewhere, I may, I trust, be indulged in a single remark. No man could hope to perform duties so delicate and responsible as pertain to the presidential office without sometimes incurring the hostility of those who deem their opinions and wishes treated with insufficient consideration; and he who undertakes to conduct the affairs of a great government as a faithful public servant, if sustained by the approval of his own conscience, may rely with confidence upon the candor and intelligence of a free people, whose best interest he has striven to subserve, and can bear with patience the censure of disappointed men."

The President's view, expressed in his last sentence, that the cause of Senator Sumner's attack upon him was disappointed ambition was generally accepted by the country. After the attack the two statesmen held no personal intercourse, and in 1872 the Senator joined

CHAPTER II

THE VENEZUELA BOUNDARY

Special Message of President Cleveland—Correspondence Between Lord Salisbury, British Prime Minister, and Richard Olney, American Secretary of State, on the Monroe Doctrine—The "War Scare"—Boundary Commission Appointed—Dispute Arbitrated.

ON December 17, 1895, President Cleveland sent a special message to the Senate on the dispute between Great Britain and Venezuela over the boundary between British Guiana and Venezuela.

This dispute, which had been in existence for fifty years, had been brought to a crisis by recent encroachments of the British upon what Venezuela considered her territory.

Richard Olney, American Secretary of State, had entered into extensive correspondence with the British Government, through its Ambassador at Washington, Sir Julian Pauncefote, on the subject of our rights under the Monroe Doctrine, and had been met by Lord Salisbury, the British prime minister, with a refusal to admit that the Monroe Doctrine, whatever its expediency, "is clothed with the sanction which belongs to a doctrine of international law." This correspondence the President laid before the Senate with his message.

THE VENEZUELA BOUNDARY

SPECIAL MESSAGE OF PRESIDENT CLEVELAND

In my annual message addressed to the Congress on the 3d instant I called attention to the pending boundary controversy between Great Britain and the Republic of Venezuela, and recited the substance of a representation made by this Government to Her Britannic Majesty's Government suggesting rea-

in the Liberal Republican movement to elect Horace Greeley to the Presidency in place of General Grant.

Beyond submitting the report of the commission the President made no attempt to secure further action on the annexation of San Domingo, and the project was quietly dropped by Congress. He nevertheless held to his belief in the expediency of the measure, recurring to it in his last annual message (December, 1876):

"If my views had been concurred in, the country would be in a more prosperous condition to-day, both politically and financially."

sons why such dispute should be submitted to arbitration for settlement and inquiring whether it would be so submitted.

The answer of the British Government, which was then awaited, has since been received, and, together with the dispatch to which it is a reply, is hereto appended.

Such reply is embodied in two communications by the British prime minister to Sir Julian Pauncefote, the British ambassador at this capital. It will be seen that one of these communications is devoted exclusively to observations upon the Monroe Doctrine, and claims that in the present instance a new and strange extension and development of this doctrine is insisted on by the United States, that the reasons justifying an appeal to the doctrine enunciated by President Monroe are generally inapplicable "to the state of things in which we live at the present day," and especially inapplicable to a controversy involving the boundary line between Great Britain and Venezuela.

Without attempting extended argument in reply to these positions, it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and cannot become obsolete while our Republic endures. If the balance of power is justly a cause for jealous anxiety among the governments of the Old World and a subject for our absolute non-interference, none the less is an observance of the Monroe doctrine of vital concern to our people and their Government.

Assuming, therefore, that we may properly insist upon this doctrine without regard to "the state of things in which we live," or any changed conditions here or elsewhere, it is not apparent why its application may not be invoked in the present controversy.

If a European power, by an extension of its boundaries, takes possession of the territory of one of our neighboring republics against its will and in derogation of its rights, it is difficult to see why, to that extent, such European power does not thereby attempt to extend its system of government to that portion of this continent which is thus taken. This is the precise action which President Monroe declared to be "dangerous to our peace and safety," and it can make no difference whether the European system is extended by an advance of frontier or otherwise.

It is also suggested in the British reply that we should not seek to apply the Monroe Doctrine to the pending dispute because it does not embody any principle of international law which "is founded on the general consent of nations," and that "no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized before, and which has not since been accepted by the government of any other country."

Practically the principle for which we contend has peculiar, if not exclusive, relation to the United States. It may not have been admitted in so many words to the code of international law, but since in international councils every nation is entitled to the rights belonging to it, if the enforcement of the Monroe Doctrine is something we may justly claim, it has its place in the code of international law as certainly and as securely as if it were specifically mentioned, and when the United States is a suitor before the high tribunal that administers international law the question to be determined is whether or not we present claims which the justice of that code of law can find to be right and valid.

The Monroe Doctrine finds its recognition in those principles of international law which are based upon the theory that every nation shall have its rights protected and its just claims enforced.

Of course this Government is entirely confident that under the sanction of this doctrine we have clear rights and undoubted claims. Nor is this ignored in the British reply. The prime minister, while not admitting that the Monroe Doctrine is applicable to present conditions, states: "In declaring that the United States would resist any such enterprise if it was contemplated President Monroe adopted a policy which received the entire sympathy of the English Government of that date." He further declares: "Though the language of President Monroe is directed to the attainment of objects which most Englishmen would agree to be salutary, it is impossible to admit that they have been inscribed by any adequate authority in the code of international law."

Again the prime minister says: "They (Her Majesty's Government) fully concur with the view which President Monroe apparently entertained, that any disturbance of the existing territorial distribution in that hemisphere by any fresh acquisition on the part of any European state would be a highly inexpedient change."

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given to all available evidence, records, and facts in support of the claims of both parties.

In order that such an examination should be prosecuted in a thorough and satisfactory manner, I suggest that the Congress make an adequate appropriation for the expenses of a commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted it will, in my opinion, be the duty of the United States to resist, by every means in its power, as a willful aggression upon its rights and interests, the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which, after investigation, we have determined of right belongs to Venezuela.

In making these recommendations I am fully alive to the responsibility incurred, and keenly realize all the consequences that may follow.

I am, nevertheless, firm in my conviction that, while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness.

DIPLOMATIC DEBATE ON THE VENEZUELA BOUNDARY

SECRETARY OLNEY TO AMBASSADOR BAYARD, JULY 20, 1895

The Secretary recounted the status of the dispute. He then said:

The foregoing analysis shows the status to be such that those charged with the interests of the United States are now forced to determine exactly what those interests are and what course of action they require. It compels them to decide to what extent, if any, the United States may and should intervene in a controversy between and primarily concerning only Great Britain and Venezuela, and to decide how far it is bound to see that the integrity of Venezuelan territory is not impaired by the pretensions of its powerful antagonist. Are any such right and duty devolved upon the United States? If not, the

In the belief that the doctrine for which we contend was clear and definite, that it was founded upon substantial considerations and involved our safety and welfare, that it was fully applicable to our present conditions and to the state of the world's progress, and that it was directly related to the pending controversy, and without any conviction as to the final merits of the dispute, but anxious to learn in a satisfactory and conclusive manner whether Great Britain sought, under a claim of boundary, to extend her possessions on this continent without right, or whether she merely sought possession of territory fairly included within her lines of ownership, this Government proposed to the Government of Great Britain a resort to arbitration as the proper means of settling the question, to the end that a vexatious boundary dispute between the two contestants might be determined and our exact standing and relation in respect to the controversy might be made clear.

It will be seen from the correspondence herewith submitted that this proposition has been declined by the British Government, upon grounds which, in the circumstances, seem to me to be far from satisfactory. It is deeply disappointing that such an appeal, actuated by the most friendly feelings toward both nations directly concerned, addressed to the sense of justice and to the magnanimity of one of the great powers of the world and touching its relations to one comparatively weak and small, should have produced no better results.

The course to be pursued by this Government, in view of the present condition, does not appear to admit of serious doubt. Having labored faithfully for many years to induce Great Britain to submit this dispute to impartial arbitration, and having been now finally apprised of her refusal to do so, nothing remains but to accept the situation, to recognize its plain requirements, and deal with it accordingly. Great Britain's present proposition has never thus far been regarded as admissible by Venezuela, though any adjustment of the boundary which that country may deem for her advantage and may enter into of her own free will cannot of course be objected to by the United States.

Assuming, however, that the attitude of Venezuela will remain unchanged, the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. The inquiry to that end should of course be conducted carefully and judiciously, and due weight should be

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United States has already done all, if not more than all, that a purely sentimental interest in the affairs of the two countries justifies, and to push its interposition further would be unbecoming and undignified, and might well subject it to the charge of impertinent intermeddling with affairs with which it has no rightful concern. On the other hand, if any such right and duty exist, their due exercise and discharge will not permit of any action that shall not be efficient, and that, if the power of the United States is adequate, shall not result in the accomplishment of the end in view.

That there are circumstances under which a nation may justly interpose in a controversy to which two or more other nations are the direct and immediate parties is an admitted canon of international law. The doctrine is ordinarily expressed in terms of the most general character, and is perhaps incapable of more specific statement. It is declared in substance that a nation may avail itself of this right whenever what is done or proposed by any of the parties primarily concerned is a serious and direct menace to its own integrity, tranquillity, or welfare. On the other hand, it is an inevitable though unfortunate consequence of the wide scope of the rule that intervention has only too often been made a cloak for schemes of wanton spoliation and aggrandizement. We are concerned at this time, however, not so much with the general rule as with a form of it which is peculiarly and distinctively American.

Here the Secretary recounted the foreign policy of the United States from the Administration of Washington to that of Monroe.

The Monroe Administration did not content itself with formulating a correct rule for the regulation of the relations between Europe and America. It aimed at also securing the practical benefits to result from the application of the rule. Hence the President's famous message declared that the American continents were fully occupied and were not the subjects for future colonization by European powers. To this spirit and this purpose also are to be attributed the passages of the same message which treat any infringement of the rule against interference in American affairs on the part of the powers of Europe as an act of unfriendliness to the United States. It was realized that it was futile to lay down such a rule unless its observance could be enforced. It was manifest that the United States was the only power in this hemisphere capable of

enforcing it. It was therefore courageously declared not merely that Europe ought not to interfere in American affairs, but that any European power doing so would be regarded as antagonizing the interests and inviting the opposition of the United States.

That America is in no part open to colonization, though the proposition was not universally admitted at the time of its first enunciation, has long been universally conceded. We are now concerned, therefore, only with that other practical application of the Monroe Doctrine, the disregard of which by an European power is to be deemed an act of unfriendliness toward the United States. The precise scope and limitations of this rule cannot be too clearly apprehended. It does not establish any general protectorate by the United States over other American states. It does not relieve any American state from its obligations as fixed by international law, nor prevent any European power directly interested from enforcing such obligations or from inflicting merited punishment for the breach of them. It does not contemplate any interference in the internal affairs of any American state or in the relations between it and other American states. It does not justify any attempt on our part to change the established form of government of any American state or to prevent the people of such state from altering that form according to their own will and pleasure. The rule in question has but a single purpose and object. It is that no European power or combination of European powers shall forcibly deprive an American state of the right and power of self-government and of shaping for itself its own political fortunes and destinies.

That the rule thus defined has been the accepted public law of this country ever since its promulgation cannot fairly be denied. Three years after its promulgation, Webster declared that the doctrine involved the honor of the country. "I look upon it," he said, "as part of its treasures of reputation, and for one I intend to guard it," and he added:

"I look on the message of December, 1823, as forming a bright page in our history. I will help neither to erase it nor tear it out; nor shall it be by any act of mine blurred or blotted. It did honor to the sagacity of the Government, and I will not diminish that honor."

Though the rule thus highly eulogized by Webster has never been formally affirmed by Congress, the House in 1864 declared against the Mexican monarchy sought to be set up by the French as not in accord with the policy of the United States,

herself. America is not interested in them and ought not to be vexed or complicated with them.

What is true of the material is no less true of what may be termed the moral interests involved. Those pertaining to Europe are peculiar to her and are entirely diverse from those pertaining and peculiar to America. Europe as a whole is monarchical, and, with the single important exception of the Republic of France, is committed to the monarchical principle. America, on the other hand, is devoted to the exactly opposite principle—to the idea that every people has an inalienable right of self-government—and in the United States of America has furnished to the world the most conspicuous and conclusive example and proof of the excellence of free institutions, whether from the standpoint of national greatness or of individual happiness. It cannot be necessary, however, to enlarge upon this phase of the subject. Whether moral or material interests be considered, it cannot but be universally conceded that those of Europe are irreconcilably diverse from those of America, and that any European control of the latter is necessarily both incongruous and injurious. If, however, for the reasons stated, the forcible intrusion of European powers into American politics is to be deprecated—if, as it is to be deprecated, it should be resisted and prevented—such resistance and prevention must come from the United States. They would come from it, of course, were it made the point of attack. But, if they come at all, they must also come from it when any other American state is attacked, since only the United States has the strength adequate to the exigency.

Is it true, then, that the safety and welfare of the United States are so concerned with the maintenance of the independence of every American state as against any European power as to justify and require the interposition of the United States whenever that independence is endangered? The question can be candidly answered in but one way. The states of America, south as well as north, by geographical proximity, by natural sympathy, by similarity of governmental constitutions, are friends and allies, commercially and politically, of the United States. To allow the subjugation of any of them by an European power is, of course, to completely reverse that situation and signifies the loss of all the advantages incident to their natural relations to us. But that is not all. The people of the United States have a vital interest in the cause of popular self-government. They have secured the right for themselves and their posterity at the cost of infinite blood and treasure.

and in 1889 the Senate expressed its disapproval of the connection of any European power with a canal across the Isthmus of Darien or Central America. It is manifest that if a rule has been openly and uniformly declared and acted upon by the executive branch of the Government for more than seventy years without express repudiation by Congress, it must be conclusively presumed to have its sanction. Nor, if the practical results of the rule be sought for, is the record either meager or obscure.

Its first and immediate effect was indeed most momentous and far reaching. It was the controlling factor in the emancipation of South America and to it the independent states which now divide that region between them are largely indebted for their very existence. Since then the most striking single achievement to be credited to the rule is the evacuation of Mexico by the French upon the termination of the Civil War. But we are also indebted to it for the provisions of the Clayton-Bulwer treaty, which both neutralized any interoceanic canal across Central America and expressly excluded Great Britain from occupying or exercising any dominion over any part of Central America. It has been used in the case of Cuba as if justifying the position that, while the sovereignty of Spain will be respected, the island will not be permitted to become the possession of any other European power. It has been influential in bringing about the definite relinquishment of any supposed protectorate by Great Britain over the Mosquito Coast.

The foregoing enumeration not only shows the many instances wherein the rule in question has been affirmed and applied, but also demonstrates that the Venezuelan boundary controversy is in any view far within the scope and spirit of the rule as uniformly accepted and acted upon. A doctrine of American public law thus long and firmly established and supported could not easily be ignored in a proper case for its application, even were the considerations upon which it is founded obscure or questionable. No such objection can be made, however, to the Monroe Doctrine, understood and defined in the manner already stated. It rests, on the contrary, upon facts and principles that are both intelligible and incontrovertible. That distance and 3,000 miles of intervening ocean make any permanent political union between an European and an American state unnatural and inexpedient will hardly be denied. But physical and geographical considerations are the least of the objections to such a union. Europe, as Washington observed, has a set of primary interests which are peculiar to

They have realized and exemplified its beneficent operation by a career unexampled in point of national greatness or individual felicity. They believe it to be for the healing of all nations, and that civilization must either advance or retrograde accordingly as its supremacy is extended or curtailed. Imbued with these sentiments, the people of the United States might not impossibly be wrought up to an active propaganda in favor of a cause so highly valued both for themselves and for mankind. But the age of the Crusades has passed, and they are content with such assertion and defence of the right of popular self-government as their own security and welfare demand. It is in that view more than in any other that they believe it not to be tolerated that the political control of an American state shall be forcibly assumed by an European power.

The mischiefs apprehended from such a source are none the less real because not immediately imminent in any specific case, and are none the less to be guarded against because the combination of circumstances that will bring them upon us cannot be predicted. The civilized states of Christendom deal with each other on substantially the same principles that regulate the conduct of individuals. The greater its enlightenment, the more surely every state perceives that its permanent interests require it to be governed by the immutable principles of right and justice. Each, nevertheless, is only too liable to succumb to the temptations offered by seeming special opportunities for its own aggrandizement, and each would rashly imperil its own safety were it not to remember that for the regard and respect of other states it must be largely dependent upon its own strength and power. To-day the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition. Why? It is not because of the pure friendship or good will felt for it. It is not simply by reason of its high character as a civilized state, nor because wisdom and justice and equity are the invariable characteristics of the dealings of the United States. It is because, in addition to all other grounds, its infinite resources, combined with its isolated position, render it master of the situation and practically invulnerable as against any or all other powers.

All the advantages of this superiority are at once imperiled if the principle be admitted that European powers may convert American states into colonies or provinces of their own. The principle would be eagerly availed of, and every power doing so would immediately acquire a base of military operations against us. What one power was permitted to do could not be

denied to another, and it is not inconceivable that the struggle now going on for the acquisition of Africa might be transferred to South America. If it were, the weaker countries would unquestionably be soon absorbed, while the ultimate result might be the partition of all South America between the various European powers. The disastrous consequences to the United States of such a condition of things are obvious. The loss of prestige, of authority, and of weight in the councils of the family of nations would be among the least of them. Our only real rivals in peace as well as enemies in war would be found located at our very doors. Thus far in our history we have been spared the burdens and evils of immense standing armies and all the other accessories of huge warlike establishments, and the exemption has largely contributed to our national greatness and wealth as well as to the happiness of every citizen. But, with the powers of Europe permanently encamped on American soil, the ideal conditions we have thus far enjoyed cannot be expected to continue. We, too, must be armed to the teeth; we, too, must convert the flower of our male population into soldiers and sailors, and, by withdrawing these citizens from the various pursuits of peaceful industry, we, too, must practically annihilate a large share of the productive energy of the nation.

How a greater calamity than this could overtake us it is difficult to see. Nor are our just apprehensions to be allayed by suggestions of the friendliness of European powers—of their good will toward us—of their disposition, should they be our neighbors, to dwell with us in peace and harmony. The people of the United States have learned in the school of experience to what extent the relations of states to each other depend not upon sentiment nor principle, but upon selfish interest. They will not soon forget that, in their hour of distress, all their anxieties and burdens were aggravated by the possibility of demonstrations against their national life on the part of powers with whom they had long maintained the most harmonious relations. They have yet in mind that France seized upon the apparent opportunity of our Civil War to set up a monarchy in the adjoining state of Mexico. They realize that had France and Great Britain held important South American possessions to work from and to benefit, the temptation to destroy the predominance of the great Republic in this hemisphere by furthering its dismemberment might have been irresistible. From that grave peril they have been saved in the past and may be saved again in the future through the operation of the sure but silent

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to procure a fraction of South American soil by voluntary cession.

The declaration of the Monroe message—that existing colonies or dependencies of an European power would not be interfered with by the United States—means colonies or dependencies then existing, with their limits as then existing. So it has been invariably construed, and so it must continue to be construed unless it is to be deprived of all vital force. Great Britain cannot be deemed a South American state within the purview of the Monroe Doctrine, nor, if she is appropriating Venezuelan territory, is it material that she does so by advancing the frontier of an old colony instead of by the planting of a new colony. The difference is matter of form and not of substance, and the doctrine, if pertinent in the one case, must be in the other also. It is not admitted, however, and therefore cannot be assumed, that Great Britain is in fact usurping dominion over Venezuelan territory. While Venezuela charges such usurpation, Great Britain denies it, and the United States, until the merits are authoritatively ascertained, can take sides with neither. But while this is so—while the United States may not, under existing circumstances at least, take upon itself to say which of the two parties is right and which wrong—it is certainly within its right to demand that the truth shall be ascertained. Being entitled to resent and resist any sequestration of Venezuelan soil by Great Britain, it is necessarily entitled to know whether such sequestration has occurred or is now going on. Otherwise, if the United States is without the right to know and have it determined whether there is or is not British aggression upon Venezuelan territory, its right to protest against or repel such aggression may be dismissed from consideration.

The right to act upon a fact the existence of which there is no right to have ascertained is simply illusory. It being clear, therefore, that the United States may legitimately insist upon the merits of the boundary question being determined, it is equally clear that there is but one feasible mode of determining them, viz., peaceful arbitration. Great Britain admits that there is a controversy and that arbitration should be resorted to for its adjustment. But the practical effect of this admission is completely nullified by her insistence that the submission shall cover but a part of the controversy—that, as a condition of arbitrating her right to a part of the disputed territory, the remainder shall be turned over to her. If it were possible to point to a boundary which both parties had ever

force of the doctrine proclaimed by President Monroe. To abandon it, on the other hand, disregarding both the logic of the situation and the facts of our past experience, would be to renounce a policy which has proved both an easy defence against foreign aggression and a prolific source of internal progress and prosperity.

There is, then, a doctrine of American public law, well founded in principle and abundantly sanctioned by precedent, which entitles and requires the United States to treat as an injury to itself the forcible assumption by an European power of political control over an American state. The application of the doctrine to the boundary dispute between Great Britain and Venezuela remains to be made and presents no real difficulty. Though the dispute relates to a boundary line, yet, as it is between states, it necessarily imports political control to be lost by one party and gained by the other. The political control at stake, too, is of no mean importance but concerns a domain of great extent—the British claim, it will be remembered, apparently expanded in two years some 33,000 square miles—and, if it also directly involves the command of the mouth of the Orinoco, is of immense consequence in connection with the whole river navigation of the interior of South America. It has been intimated, indeed, that in respect of these South American possessions Great Britain is herself an American state like any other, so that a controversy between her and Venezuela is to be settled between themselves as if it were between Venezuela and Brazil or between Venezuela and Columbia, and does not call for or justify United States intervention. If this view be tenable at all, the logical sequence is plain.

Great Britain as a South American state is to be entirely differentiated from Great Britain generally, and, if the boundary question cannot be settled otherwise than by force, British Guiana, with her own independent resources, and not those of the British Empire, should be left to settle the matter with Venezuela—an arrangement which very possibly Venezuela might not object to. But the proposition that an European power with an American dependency is, for the purposes of the Monroe Doctrine, to be classed not as an European but as an American state will not admit of serious discussion. If it were to be adopted, the Monroe Doctrine would be too valueless to be worth asserting. Not only would every European power now having a South American colony be enabled to extend its possessions on this continent indefinitely, but any other European power might also do the same by first taking pains

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agreed or assumed to be such either expressly or tacitly, the demand that territory conceded by such line to British Guiana should be held not to be in dispute might rest upon a reasonable basis. But there is no such line. The territory which Great Britain insists shall be ceded to her as a condition of arbitrating her claim to other territory has never been admitted to belong to her. It has always and consistently been claimed by Venezuela.

Upon what principle—except her feebleness as a nation—is she to be denied the right of having the claim heard and passed upon by an impartial tribunal? No reason nor shadow of reason appears in all the voluminous literature of the subject. "It is to be so because I will it to be so" seems to be the only justification Great Britain offers. It is, indeed, intimated that the British claim to this particular territory rests upon an occupation which, whether acquiesced in or not, has ripened into a perfect title by long continuance. But what prescription affecting territorial rights can be said to exist as between sovereign states? Or, if there is any, what is the legitimate consequence? It is not that all arbitration should be denied, but only that the submission should embrace an additional topic, namely, the validity of the asserted prescriptive title either in point of law or in point of fact. No different result follows from the contention that as matter of principle Great Britain cannot be asked to submit and ought not to submit to arbitration her political and sovereign rights over territory. This contention, if applied to the whole or to a vital part of the possessions of a sovereign state, need not be controverted. To hold otherwise might be equivalent to holding that a sovereign state was bound to arbitrate its very existence.

But Great Britain has herself shown in various instances that the principle has no pertinency when either the interests or the territorial area involved are not of controlling magnitude and her loss of them as the result of an arbitration cannot appreciably affect her honor or her power. Thus she has arbitrated the extent of her colonial possessions twice with the United States, twice with Portugal, and once with Germany, and perhaps in other instances. By the award of the Emperor of Germany, the arbitration in the Oregon boundary case, the United States acquired San Juan and a number of smaller islands near the coast of Vancouver as a consequence of the decision that the term "the channel which separates the continent from Vancouver Island," as used in the treaty of Washington of 1846, meant the Haro channel and not the Rosario

channel. Yet a leading contention of Great Britain before the arbitrator was that equity required a judgment in her favor because a decision in favor of the United States would deprive British subjects of rights of navigation of which they had had the habitual enjoyment from the time when the Rosario Strait was first explored and surveyed in 1798.

Therefore the British demand that her right to a portion of the disputed territory shall be acknowledged before she will consent to an arbitration as to the rest seems to stand upon nothing but her own *ipse dixit*. She says to Venezuela, in substance: "You can get none of the debatable land by force, because you are not strong enough; you can get none by treaty because I will not agree; and you can take your chance of getting a portion by arbitration only if you first agree to abandon to me such other portion as I may designate." It is not perceived how such an attitude can be defended nor how it is reconcilable with that love of justice and fair play so eminently characteristic of the English race. It in effect deprives Venezuela of her free agency and puts her under virtual duress. Territory acquired by reason of it will be as much wrested from her by the strong hand as if occupied by British troops or covered by British fleets. It seems, therefore, quite impossible that this position of Great Britain should be assented to by the United States, or that, if such position be adhered to with the result of enlarging the bounds of British Guiana, it should not be regarded as amounting, in substance, to an invasion and conquest of Venezuelan territory.

In these circumstances the duty of the President appears to him unmistakable and imperative. Great Britain's assertion of title to the disputed territory, combined with her refusal to have that title investigated, being a substantial appropriation of the territory to her own use, not to protest and give warning that the transaction will be regarded as injurious to the interests of the people of the United States, as well as oppressive in itself, would be to ignore an established policy with which the honor and welfare of this country are closely identified. While the measures necessary or proper for the vindication of that policy are to be determined by another branch of the Government, it is clearly for the Executive to leave nothing undone which may tend to render such determination unnecessary.

You are instructed, therefore, to present the foregoing views to Lord Salisbury and to reinforce them by such pertinent considerations as will doubtless occur to you. They call for a definite decision upon the point whether Great Britain will con-

It was sustained by external aid, were incidents fresh in the mind of President Monroe when he penned his celebrated message. The system of which he speaks, and of which he so resolutely deprecates the application to the American continent, was the system then adopted by certain powerful states upon the continent of Europe of combining to prevent by force of arms the adoption in other countries of political institutions which they disliked, and to uphold by external pressure those which they approved. Various portions of South America had recently declared their independence, and that independence had not been recognized by the Governments of Spain and Portugal, to which, with small exception, the whole of Central and South America were nominally subject. It was not an imaginary danger that he foresaw, if he feared that the same spirit which had dictated the French expedition into Spain might inspire the more powerful governments of Europe with the idea of imposing, by the force of European arms, upon the South American communities the form of government and the political connection which they had thrown off. In declaring that the United States would resist any such enterprise if it was contemplated, President Monroe adopted a policy which received the entire sympathy of the English Government of that date.

The dangers which were apprehended by President Monroe have no relation to the state of things in which we live at the present day. There is no danger of any Holy Alliance imposing its system upon any portion of the American continent, and there is no danger of any European state treating any part of the American continent as a fit object for European colonization. It is intelligible that Mr. Olney should invoke, in defence of the views on which he is now insisting, an authority which enjoys so high a popularity with his own fellow countrymen. But the circumstances with which President Monroe was dealing, and those to which the present American Government is addressing itself, have very few features in common. Great Britain is imposing no "system" upon Venezuela, and is not concerning herself in any way with the nature of the political institutions under which the Venezuelans may prefer to live. But the British Empire and the Republic of Venezuela are neighbors, and they have differed for some time past, and continue to differ, as to the line by which the dominions are separated. It is a controversy with which the United States have no apparent practical concern. It is difficult, indeed, to see how it can materially affect any state or community outside

sent or will decline to submit the Venezuelan boundary question in its entirety to impartial arbitration. It is the earnest hope of the President that the conclusion will be on the side of arbitration, and that Great Britain will add one more to the conspicuous precedents she has already furnished in favor of that wise and just mode of adjusting international disputes. If he is to be disappointed in that hope, however—a result not to be anticipated and in his judgment calculated to greatly embarrass the future relations between this country and Great Britain—it is his wish to be made acquainted with the fact at such early date as will enable him to lay the whole subject before Congress in his next annual message.

LORD SALISBURY TO SIR JULIAN PAUNCEFOTE, NOVEMBER 26, 1895

The contentions set forth by Mr. Olney are represented by him as being an application of the political maxims which are well known in American discussion under the name of the Monroe Doctrine. As far as I am aware, this doctrine has never been before advanced on behalf of the United States in any written communication addressed to the government of another nation; but it has been generally adopted and assumed as true by many eminent writers and politicians in the United States. It is said to have largely influenced the Government of that country in the conduct of its foreign affairs; though Mr. Clayton, who was Secretary of State under President Taylor, expressly stated that that Administration had in no way adopted it. But, during the period that has elapsed since the message of President Monroe was delivered in 1823, the doctrine has undergone a very notable development, and the aspect which it now presents in the hands of Mr. Olney differs widely from its character when it first issued from the pen of its author. The two propositions which in effect President Monroe laid down were, first, that America was no longer to be looked upon as a field for European colonization; and, secondly, that Europe must not attempt to extend its political system to America, or to control the political condition of any of the American communities who had recently declared their independence.

The dangers against which President Monroe thought it right to guard were not as imaginary as they would seem at the present day. The formation of the Holy Alliance; the congresses of Laybach and Verona; the invasion of Spain by France for the purpose of forcing upon the Spanish people a form of government which seemed likely to disappear, unless

those primarily interested, except perhaps other parts of Her Majesty's dominions, such as Trinidad. The disputed frontier of Venezuela has nothing to do with any of the questions dealt with by President Monroe. It is not a question of the colonization by a European power of any portion of America. It is not a question of the imposition upon the communities of South America of any system of government devised in Europe. It is simply the determination of the frontier of a British possession which belonged to the throne of England long before the Republic of Venezuela came into existence. But even if the interests of Venezuela were so far linked to those of the United States as to give to the latter a *locus standi* in this controversy, their Government apparently have not formed, and certainly do not express, any opinion upon the actual merits of the dispute.

The Government of the United States do not say that Great Britain, or that Venezuela, is in the right in the matters that are in issue. But they lay down that the doctrine of President Monroe, when he opposed the imposition of European systems, or the renewal of European colonization, confers upon them the right of demanding that when a European power has a frontier difference with a South American community the European power shall consent to refer that controversy to arbitration; and Mr. Olney states that unless Her Majesty's Government accede to this demand it will "greatly embarrass the future relations between Great Britain and the United States."

Whatever may be the authority of the doctrine laid down by President Monroe, there is nothing in his language to show that he ever thought of claiming this novel prerogative for the United States. It is admitted that he did not seek to assert a protectorate over Mexico or the states of Central and South America. Such a claim would have imposed upon the United States the duty of answering for the conduct of these states, and consequently the responsibility of controlling it. His sagacious foresight would have led him energetically to deprecate the addition of so serious a burden to those which the rulers of the United States have to bear. It follows of necessity that if the Government of the United States will not control the conduct of these communities neither can it undertake to protect them from the consequences attaching to any misconduct of which they may be guilty toward other nations. If they violate in any way the rights of another state, or of its subjects, it is not alleged that the Monroe Doctrine will assure them the assistance of the United States in escaping from any repara-

tion which they may be bound by international law to give. Mr. Olney expressly disclaims such an inference from the principles he lays down.

But the claim which he founds upon them is that if any independent American state advances a demand for territory of which its neighbor claims to be the owner, and that neighbor is the colony of a European state, the United States have a right to insist that the European state shall submit the demand and its own impugned rights to arbitration.

I will not now enter into a discussion of the merits of this method of terminating international differences. It has proved itself valuable in many cases; but it is not free from defects, which often operate as a serious drawback on its value. It is not always easy to find an arbitrator who is competent and who, at the same time, is wholly free from bias; and the task of insuring compliance with the award when it is made is not exempt from difficulty. It is a mode of settlement of which the value varies much according to the nature of the controversy to which it is applied and the character of the litigants who appeal to it. Whether, in any particular case, it is a suitable method of procedure is generally a delicate and difficult question. The only parties who are competent to decide that question are the two parties whose rival contentions are in issue. The claim of a third nation, which is unaffected by the controversy, to impose this particular procedure on either of the two others cannot be reasonably justified, and has no foundation in the law of nations.

In the remarks which I have made I have argued on the theory that the Monroe Doctrine in itself is sound. I must not, however, be understood as expressing any acceptance of it on the part of Her Majesty's Government. It must always be mentioned with respect, on account of the distinguished statesman to whom it is due and the great nation who have generally adopted it. But international law is founded on the general consent of nations; and no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized before and which has not since been accepted by the government of any other country. The United States has a right, like any other nation, to interpose in any controversy by which their own interests are affected; and they are the judge whether those interests are touched, and in what measure they should be sustained. But their rights are in no way strengthened or extended by the fact that the controversy affects some ter-

ritory which is called American. Mr. Olney quotes the case of the recent Chilean war, in which the United States declined to join with France and England in an effort to bring hostilities to a close, on account of the Monroe Doctrine. The United States were entirely in their right in declining to join in an attempt at pacification if they thought fit; but Mr. Olney's principle that "American questions are for American decision," even if it receive any countenance from the language of President Monroe (which it does not), cannot be sustained by any reasoning drawn from the law of nations.

The Government of the United States is not entitled to affirm as a universal proposition, with reference to a number of independent states for whose conduct it assumes no responsibility, that its interests are necessarily concerned in whatever may befall those states simply because they are situated in the Western Hemisphere. It may well be that the interests of the United States are affected by something that happens to Chile or to Peru, and that that circumstance may give them the right of interference; but such a contingency may equally happen in the case of China or Japan, and the right of interference is not more extensive or more assured in the one case than in the other.

Though the language of President Monroe is directed to the attainment of objects which most Englishmen would agree to be salutary, it is impossible to admit that they have been inscribed by any adequate authority in the code of international law; and the danger which such admission would involve is sufficiently exhibited both by the strange development which the doctrine has received at Mr. Olney's hands and the arguments by which it is supported in the dispatch under reply. In defence of it he says:

"That distance and 3,000 miles of intervening ocean make any permanent political union between a European and an American state unnatural and inexpedient will hardly be denied. But physical and geographical considerations are the least of the objections to such a union. Europe has a set of primary interests which are peculiar to herself; America is not interested in them, and ought not to be vexed or complicated with them."

And again:

"Thus far in our history we have been spared the burdens and evils of immense standing armies and all the other accessories of huge warlike establishments; and the exemption has highly contributed to our national greatness and wealth, as

well as to the happiness of every citizen. But, with the powers of Europe permanently encamped on American soil, the ideal conditions we have thus far enjoyed cannot be expected to continue."

The necessary meaning of these words is that the union between Great Britain and Canada; between Great Britain and Jamaica and Trinidad; between Great Britain and British Honduras or British Guiana are "inexpedient and unnatural." President Monroe disclaims any such inference from his doctrine; but in this, as in other respects, Mr. Olney develops it. He lays down that the inexpedient and unnatural character of the union between a European and American state is so obvious that it "will hardly be denied."

Her Majesty's Government is prepared emphatically to deny it on behalf of both the British and American people who are subject to her crown. They maintain that the union between Great Britain and her territories in the Western Hemisphere is both natural and expedient. They fully concur with the view which President Monroe apparently entertained, that any disturbance of the existing territorial distribution in that hemisphere by any fresh acquisitions on the part of any European state would be a highly inexpedient change. But they are not prepared to admit that the recognition of that expediency is clothed with the sanction which belongs to a doctrine of international law. They are not prepared to admit that the interests of the United States are necessarily concerned in every frontier dispute which may arise between any two of the states who possess dominion in the Western Hemisphere, and still less can they accept the doctrine that the United States is entitled to claim that the process of arbitration shall be applied to any demand for the surrender of territory which one of those states may make against another.

The publication of the President's message led to a "war scare" in this country which lowered stocks greatly and depleted the gold reserve by \$10,000,000 in three weeks, occasioning a new bond issue to replenish it.

Congress upheld the President in his course by authorizing a Venezuela boundary commission (bill passed by the House on December 18, 1895, and by the Senate on December 20). The President appointed the commission on January 1, 1896.

Through the instrumentality of the United States,

aided by the investigations of the commission, a treaty was concluded between Great Britain and Venezuela on February 2, 1897, for arbitrating the dispute.

The arbitrators made their award on October 3, 1899, establishing a compromise boundary which was accepted cheerfully by Great Britain and reluctantly by Venezuela.

CHAPTER III

THE ANNEXATION OF CUBA

The "Young America" Movement—The Lopez Expeditions Against Cuba—Action Taken by the United States Against Them—Denunciation of the Government by Senator David L. Yulee [Fla.]—President Fillmore Opposes Annexation of Cuba—Senator James M. Mason [Va.] on Its Ultimate Accomplishment—Edward Everett, Secretary of State, Declines to Join Great Britain and France in Controlling Cuba—President Pierce on the Desirability of Annexing Cuba—He Appoints Pierre Soulé, an Annexationist, Minister to Spain—His Message to Congress on the *Black Warrior* Affair—Representative Joshua R. Giddings [O.] on "The Conquest of Cuba"—William L. Marcy, Secretary of State, Opposes Forceful Annexation—Negotiations for Purchase of Cuba from Spain—Objections to the "Africanization of Cuba" by Spain by Senator John Slidell [La.]—The Administration Bribes the South to Support the Nebraska Bill by Promising Annexation of Cuba to Increase Slave Territory—Stephen R. Mallory [Fla.] and Judah P. Benjamin [La.] Introduce in the Senate Resolutions Against the "Africanization of Cuba"—Debate: in Favor of the Resolutions, Benjamin; Opposed, John M. Clayton [Del.] and William H. Seward [N. Y.]—President Pierce Frustrates Filibustering Expedition of Ex-Governor John A. Quitman—The Ostend Manifesto—Secretary Marcy Opposes It and Recalls Minister Soulé—President Buchanan, in His Annual Message, Informs Congress of Negotiations to Purchase Cuba, and Asks for an Appropriation to Do so—John Slidell [La.] Introduces in the Senate the Appropriation Bill Requested—Debate on the Bill: in Favor, James A. Bayard, Jr., [Del.] and Robert Toombs [Ga.]; Opposed, William H. Seward [N. Y.] and John P. Hale [N. H.]—Spain Rejects the Proposition—The Administration Still Urges the Acquisition of Cuba—Debate in the Senate: in Favor of War with Spain, Stephen R. Mallory [Fla.], Albert G. Brown [Miss.]; Opposed, Anthony Kennedy [Md.]; Bill Postponed.

AFTER the great acquisition of territory from the Mexican war, a "jingo" spirit arose in the country, in the South generally, and in the North among the ambitious younger Democratic statesmen represented by such ardent spirits as Stephen A. Douglas, Senator from Illinois. The South, disappointed that

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arrested on the 24th, but he was at once set at liberty and proceeded to New Orleans.

The Secretary of State thereupon instituted a suit against Lopez and his associates in New Orleans. They nevertheless traveled over the country agitating for a new expedition.

David L. Yulee [Fla.] openly denounced in the Senate the action of the Executive Department:

"The President has undertaken to involve the country in the danger of a hostile collision without the authority of Congress, and, therefore, in violation of the Constitution. In support of this position I have to refer back to the ground which I took just now, that the moment a revolutionary flag has been raised in the island a civil war is begun, and that by the laws of nations the respective parties in the struggle are to be regarded by all other people as belligerent powers. I say, then, that the order given to our fleet to go upon the coast of Cuba, where this war is raging, to take part in that war by preventing reinforcements and supplies for one party and not the other, is a participation in the war. . . . The sympathies of the Government have of late appeared to lean rather to the side of despotism than to liberal progress."

Matters remained quiescent until April 25, 1851, when President Fillmore issued a proclamation against the filibusters. On August 12 Lopez landed in Cuba and was defeated, captured, and on September 1 executed. Upon news of his defeat a mob in New Orleans destroyed the presses of a Spanish newspaper of the city and several Spanish stores and restaurants, unrestrained by the police.

Senator James M. Mason [Va.], chairman of the committee on foreign relations, saw in the proposal of Great Britain and France conclusive evidence of the jealous fear of these powers that the United States would annex Cuba. While asserting that it was "our policy to let Cuba alone" and "sacredly to regard the rights of Spain," he declared: "We know that in the fulness of time the fruit will ripen and fall from the parent stem. When that time shall come its political coalition with this continent is inevitable. Interference

slavery was excluded (by the State though not by the Federal Government from California, desired more territory to which it could be admitted, and "Young America," as the Douglas element in the North was called, wished that the country should take a more prominent place in world politics.

In 1849 a filibustering expedition had been organized in the United States against Spanish rule in Cuba by a certain Captain White, which was thwarted by President Taylor in his proclamation of August 11, 1849, although the leaders escaped punishment. The movement for free Cuba continued active, and preparations for a new expedition were begun under the direction of Marisco Lopez, a Cuban revolutionist, in New York, Boston, and especially New Orleans, where enlistments were openly made without any action for their repression being made by our Government. When, however, the audacious conspirators formed a *junta* in Washington, the national capital, "under the nose of the Government," to quote *Brownson's Review*, the Spanish ambassador, Calderon de la Barca, protested vigorously to the State Department; and John M. Clayton, Secretary of State, on January 22, 1850, directed the United States attorneys to take steps against these and all other violations of international obligations. The instructions, however, were so formal in tone that the attorneys did nothing, reporting that no overt acts against Cuba had transpired. The conspirators thereupon became even bolder; several hundred men flocked to New Orleans openly professing that they were enlisted in an expedition against Cuba, and in New York the *Sun* ran up the flag of the Cuban republic. Calderon renewed his protest early in May, and the Government this time took secret measures, sending war vessels to Cuban waters to seize the filibusters. Lopez, however, eluded these, and landed in Cuba on May 19, capturing the Spanish governor. Nevertheless two of his ships were captured, and, realizing the insecurity of his position, he sailed to the United States in his principal vessel, the *Creole*, landing at Key West on the 21st. By order of the Secretary of State he was

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by other nations may hasten this event, but the combined power of Europe cannot prevent it." He added, however: "As one of the representatives of the States I am free to declare that I know of no peril which should ensue, or which should cause us to hesitate, if Cuba were ready for annexation to-morrow."

Since filibustering had proved unsuccessful the "Young Americans" in the North, independently entirely of the South, began openly to advocate annexation of Cuba to the United States. They professed to be uninfluenced by the bearing of the question on slavery, claiming that they were impelled in their policy by the principle of "manifest destiny" alone—the ultimate extension of our Government throughout the Western Hemisphere.

In 1852 Great Britain and France proposed to the United States a tripartite convention by which "the three powers should severally and collectively disclaim now and for the future all intention to obtain possession of the island of Cuba, and should bind themselves to discountenance all attempts to that effect on the part of every power or individual whatever." Edward Everett, Secretary of State, declined to enter into the convention, and President Fillmore justified the action to Congress in his annual message in December, 1852, by saying that, in his opinion, the convention "would be of doubtful constitutionality, impolitic, and unavailing."

"I have, in common with several of my predecessors, directed the ministers of France and England to be assured that the United States entertain no designs against Cuba; but that, on the contrary, I should regard its incorporation into the Union at the present time as fraught with serious peril.

"Were this island comparatively destitute of inhabitants, or occupied by a kindred race, I should regard it, if voluntarily ceded by Spain, as a most desirable acquisition. But, under existing circumstances, I should look upon its incorporation into our Union as a very hazardous measure. It would bring into the Confederacy a population of a different national stock, speaking a different language, and not likely to harmonize with the other members. It would probably affect, in a prejudicial

manner, the industrial interests of the South; and it might revive those conflicts of opinion between the different sections of the country, which lately shook the Union to its center, and which have been so happily compromised.

In his inaugural address (March 4, 1853) President Pierce referred in unmistakable terms to the desirability of annexing Cuba, saying:

"With an experience thus suggestive and cheering, the policy of my Administration will not be controlled by any timid forebodings of evil from expansion. Indeed, it is not to be disguised that our attitude as a nation and our position on the globe render the acquisition of certain possessions, not within our jurisdiction, eminently important for our protection, if not in the future essential for the preservation of the rights of commerce and the peace of the world."

Pierre Soulé, a naturalized Frenchman of New Orleans, who was strongly in favor of annexing Cuba, was sent as minister to Spain with instructions from Secretary Marcy to intimate to the Spanish Government that, while the United States would not disturb the present connection between Cuba and Spain, interference might take place were there alterations in that connection, such as the institution of changes in slavery at the behest of Great Britain and France. The power to enter into negotiations for the purchase of the island was expressly withheld for the present, because it was thought that the offer would not meet with success.

For some time past the Spanish officials in Havana had been annoying American merchants with unfair treatment of their vessels. These acts culminated on the 28th of February, 1854, when an American ship, the *Black Warrior*, was seized on the pretext, it was claimed, of an incorrect declaration and its cargo of cotton confiscated. On March 15 President Pierce sent a special message to Congress on the subject, stating that he had demanded of the Spanish Government "immediate indemnity for the injury."

"In view," he said, "of the position of the island of Cuba, its proximity to our coast, the relations which it must ever bear

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ance with the views which the Executive organ has put forth for the last year, speaking the sentiments of the President, as I suppose. Cuba had limited the price of slaves, that her scheme of colonization would eventually emancipate all her slaves; and those presses have appealed to the people to prevent this sad progress of civilization, lest it should interfere with the slavery of our Southern States.

Now we are officially called on by the President to arrest this advancing improvement in the moral and physical condition of Cuba, by the most decisive action in the power of the nation. Sir, nearly the whole Southern press is teeming with articles such as published in the *Fairfield*, South Carolina, *Herald*, of a recent date, which I will read to the House. It is as follows:

"Cuba is overlooked, Nebraska is fought for, and what will be the result of the fight? The future alone can tell. Both of these countries are about being snatched from the South; the loss of the latter would be but a slight restriction to slavery, while the former, in the hands of emancipated blacks, or of foreign powers determined to emancipate, would be a total loss to the commerce of the world, and a death-blow to the extension of slavery."

Sir, this Administration is endeavoring to turn the energies of this nation to the overthrow of this great fundamental principle, which lies at the basis of this republic. It is an effort radically to change its essential elements; to eradicate its life-giving, its vitalizing energies. I feel it my duty to meet and expose this design at its first distinct, unmistakable enunciation. The President now proclaims that *intervention against freedom*—against emancipation in Cuba—is to become the watchword of this Executive and his party.

Sir, the time selected for getting up this war is important. We are conscious that France and England are said to have guaranteed to Spain the integrity of her West Indian possessions—that a war on Cuba will be a war on France and England, as well as on Spain. Those two powers are now employed in defending the national independence of Turkey. They now present a great moral spectacle to the world. The cross and the crescent are floating together, intertwining their folds in the same breeze. The Christian and the Turk stand shoulder to shoulder, conflicting with Russian despotism; and, while France and England are thus employed, we are called on to strike them in the back, and secure Cuba to ourselves, thereby aiding the advance of Russian tyranny. That is neither generous nor honorable. I am opposed to becoming an ally to

to our commerce and other interests, it is in vain to expect that a series of unfriendly acts, infringing our commercial rights, and the adoption of a policy threatening the honor and security of these States, can long consist with peaceful relations.

"In case the measures taken for an amicable adjustment of our difficulties with Spain should unfortunately fail, I shall not hesitate to use the authorities and means which Congress may grant to insure an observance of our just rights, to obtain redress for injuries received, and to vindicate the honor of our flag. In anticipation of that contingency, which I earnestly hope may not arise, I suggest to Congress the propriety of adopting such provisional measures as the exigency may seem to demand."

In the debate on the message, which ensued in the House of Representatives, Joshua R. Giddings [O.] boldly proclaimed that it was the President and not the Spanish authorities who could be rightfully accused of employing a pretext, his purpose being to make an occasion to annex Cuba. The "other interests" mentioned in the message, the Ohio abolitionist claimed, were the slave interests. "The policy threatening the honor and security of these States" was, he said, "the effort to strike off the shackles of her bondmen," which Cuba was seriously making under Spanish rule.

THE CONQUEST OF CUBA

JOSHUA R. GIDDINGS, M. C.

The President, in the last paragraph, advises a preparation for war. This, then, is the *policy* which we are called upon to guard against, and to involve ourselves in war, to prevent which we are to resort to arms, to the last dreadful resort of battle and deadly strife. In order to prevent the progress of civilization and freedom in Cuba we must prepare to send our countrymen to premature graves. Our freemen are therefore to die that Cuban slaves may continue to sigh and groan in chains.

The President calls for authority to resist these encroachments upon the barbarous institutions of slavery in Cuba. He no longer holds to non-intervention; that only applies to Nebraska; but in Cuba he will interfere to maintain slavery, at the point of the bayonet, at the expense of our blood, our treasure, and our honor. This course of policy is in precise accord-

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Russia in that conflict. I am opposed to involving our nation in the wars of Europe. This is a time when we ought to study peace, and, so far as able, take advantage of those commercial benefits which European hostilities will place in our hands; and I shall be astonished if the commercial influence of New York and New England is not turned to the maintenance of peace at such a crisis as the present. Their interests, as well as those of humanity, require it.

Nor will a war for the conquest of Cuba prove any child's play. The combined navies of England and of France will present to us a force not to be despised. They will surround Cuba with a wall of iron and a sheet of flame. They may bring the war into this American Africa, and rear the standard of freedom on our own soil, while our army shall be fighting for slavery in Cuba. Sir, when that contest shall come, if ever it do come, gentlemen from the South may bear in mind that their slaves will feel the emotions of manhood stirring them to action; they will contend for the rights which God has bestowed upon them. And when the storm of war shall rage, and masters shall tremble as they behold their dwellings in flames, we of the North may not "laugh at your calamity, nor mock when your fear cometh"; but we will tender to those slaves their God-given right to liberty, as the terms of peace which we shall then be authorized to grant.

I mention these things that Southern men may understand that we have examined the subject and counted the cost. If they push the present weak and almost irresponsible Executive into a war to maintain Cuban slavery, they should bear in mind that there is a Power above us that may direct that war to the emancipation of slavery in our own States. Nor would such a result prove any unusual interposition of God's providence.

I would call the attention of all concerned to the policy heretofore adopted by the officers of Cuba, under the direction of the Spanish government. I refer to the declared intention to emancipate all their slaves and put arms in their hands, so soon as a hostile army of force shall land upon their soil. The policy of such a course cannot be doubted. It would not only protect the island, but would render the real estate more valuable than both land and slaves now are. Those emancipated slaves, when contending for their homes and families, their lives and liberties, would constitute a force both savage and powerful.

Thus, sir, I can easily imagine that this war which the President invokes may prove the overthrow of slavery in Cuba

as well as in our own land. Such results would best accord with the feelings, the desires of the free States, and of the whole Christian world, as well as with the spirit of the age in which we live. I may find myself in error, but I feel deeply conscious that, if such a war should result from these efforts of the slave power, that institution will be consumed by the flame which itself will have kindled. So confident am I on this point that, were I to disregard the suffering and misery with which such a war must be attended, I would not interpose an objection to the course which the President has marked out in the message before us.

Why, sir, it is but a few years since we were plunged into a war with Mexico, for the openly avowed object of extending slavery. More than \$200,000,000 were expended, and more than eighty thousand human victims sacrificed, with the expectation that slavery would be rendered more potent. And now behold, we have a free State on the Pacific. Civilization has been promoted, free institutions extended, and there is very little probability that the bounds of slavery will in any degree be enlarged by that vast expenditure of blood and treasure. Our Western Ophir is pouring its golden streams into the free States, while the inhabitants of the slave States are able to participate but sparingly in its advantages. Similar results, I trust, will follow any disturbance of the peaceful relations between us and Spain.

The President's message was referred in the House to the Committee on Foreign Affairs, two members of which, Thomas L. Clingman [N. C.] and Judge John Perkins [La.], were in favor of appropriating \$10,000,000 and employing the army and navy and 50,000 volunteers to annex Cuba forcibly, Clingman declaring that war was desirable as the only means to prevent the dissolution of the Union or a civil war for its maintenance. However, the President got wind of their intention, and he and William L. Marcy, Secretary of State, and Jefferson Davis, Secretary of War, persuaded the two Representatives to abandon their wild proposition before it became public.

The charge made by Giddings that the Administration was opposed to emancipation in Cuba was publicly justified on April 3, 1854, when new instructions were given to Minister Soulé empowering him to enter into

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and prepare Northern sentiment for those great events with which the future teems; we might more fully understand the hesitancy and doubt of some of our Southern friends, if such doubt and hesitancy really exist. When Cuba is admitted into the Union—as in the course of thick coming events she is bound to be admitted—and when the South turns to the great constitutional party of the North, already committed to that great act for aid and for counsel, let us not be compelled to find the seats in Congress, now occupied by staunch friends of the rights of the States, filled by Abolitionists and Northern Whigs elected to the national legislature by the refusal of the South in the present issue to recognize a great principle upon which, in all time, the friends of the Union might stand and defy the worst combinations of Northern fanaticism."

The suggestion of the *Union* was heartily adopted by many Southern papers. The *Richmond Enquirer* said:

"Now that Congress is delivered of the Nebraska bill, the country will expect prompt action in regard to our difficulties with Spain. . . . The only possible way in which the South can indemnify itself for its concessions to the anti-slavery fanaticism is by the acquisition of slave territory . . . and this can be done only by the annexation of Cuba. . . . The intrigues of Great Britain for the abolition of slavery in that island are pursued with a zeal and energy that cannot fail of success unless the United States interfere to prevent the consummation. . . . With Cuba in the possession of a hostile interest Southern slavery would be exposed to an assault which it could neither resist nor endure. With Cuba as a member of a great Southern confederacy slavery might bid defiance to its enemies."

The suggestion that Great Britain was casting covetous glances upon the "Pearl of the Antilles" was used by the Administration to arouse the patriotic spirit of the entire country, North as well as South, and secure its support. At the same time the old and serviceable bugaboo of the "horrors of San Domingo" was held up before the eyes of the South, always apprehensive of danger to its peculiar institution.

On the same day that the editorial appeared in the

negotiations for the purchase of Cuban independence, the reason stated for this being the introduction of a new system of apprentice negro labor. This apprentice system, it was claimed by the Administration, would lead to the "Africanization" of the island, and so menace the slave system of our Southern States.

This reason was also assigned by John Slidell [La.] for a motion which he made in the Senate on May 1 to charge the Committee on Foreign Affairs to consider the suspension of the neutrality laws during the period when Congress was not in session, the intention being, as Senator Slidell frankly stated, to cause Spain either to abandon the apprentice system or to incur the liability of war with the United States.

The Administration was driven at this time to throw out some inducements to the South to support its Nebraska policy, the Southern Senators and Representatives having become lukewarm in regard to it, seeing that, contrary to the assurances of Senator Douglas, the father of the Nebraska bill, the North was arrayed almost solidly against it.

Accordingly President Pierce and his advisers determined to join Cuban annexation to the Nebraska policy. Territorial expansion had given distinction to previous Administrations, so why not to this? The North might be somewhat diverted from its intense opposition to the domestic question of the repeal of the Missouri Compromise by the patriotic prospect of extending the national domain, and the South certainly ought to rally vigorously to the support of the repeal when the hope was held out to it of a reward for such assistance in the form of an acquisition of territory where, unlike Kansas-Nebraska, slavery already existed and was greatly profitable.

On May 16, 1854, the organ of the Administration at Washington, the *Union*, printed the following inspired editorial:

"If the principles of this bill ended with Nebraska and Kansas; if they did not mean to apply to all future acquisitions; if they did not rally men of all sections of the Union,

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Washington *Union*, Stephen R. Mallory [Fla.] introduced in the Senate a resolution declaring that recent acts of the Spanish authorities in Cuba were

"calculated to excite the just apprehension of the Government of the United States of a settled design to throw Cuba ultimately into the hands of its negro population, and to revive there, within a few hours' sail of our shores, the scenes of San Domingo's revolution, a result which the United States will deem alike inconsistent with their progress, their prosperity, and the civilization of the age."

On May 24 Judah P. Benjamin [La.] presented to the Senate resolutions of the legislature of his State concerning this "Africanization" of Cuba, which declared that "the time has arrived when the Federal Government should adopt most decisive and energetic measures to thwart and defeat a policy conceived in hatred to this republic and calculated to retard its progress and prosperity." The resolutions were opposed by John M. Clayton [Del.] and William H. Seward [N. Y.].

THE AFRICANIZATION OF CUBA

SENATE, MAY 24, 1854

SENATOR CLAYTON.—Do I understand the honorable Senator to say that he will be prepared, on some future occasion, to show us that the Spanish government has a deliberate design to emancipate the slaves in Cuba, for the purpose of preventing us from either purchasing or taking the island by violence?

SENATOR BENJAMIN.—I do not pretend to say that I shall be able to make a mathematical demonstration of a proposition of that kind; but I think I shall be able to adduce such facts and such evidence as will satisfy every unprejudiced mind, so far as it can be satisfied on a political subject of this kind, that such is the intention of that government.

SENATOR CLAYTON.—That it is their intention to emancipate those slaves now, at this time?

SENATOR BENJAMIN.—At the earliest possible moment, and now that the measures which have been taken are aimed at that very object, or, in other words, that the design is now in process of execution.

SENATOR CLAYTON.—I must express my perfect conviction that the honorable Senator will never be able to make out the facts he has stated. I have no belief in them whatever; and the more I look into the matter, the more I inquire in regard to it, the more perfectly am I satisfied that it is not true that the Spanish government intends to destroy this island, except in this contingency: They will act precisely as you, sir, would act, or any other man might act, without being censured so much, who should find that a piratical vessel was about to seize his ship and crew. You might blow up your powder magazine in such a case as that, without incurring the censure of the world. That is all, in my opinion, which the Spanish government contemplates. If they find that, from any quarter of this Union, there is a piratical expedition set on foot, with a view to take the island from them, and that there is a certainty that the island will be taken from their possession and custody by that means, they will blow up their powder magazine.

The Spanish government has given us notice of that for many years back. They have declared over and over again, more than ten years ago, to the various gentlemen who occupied stations at the head of the State Department, that if such a thing as that should be done they would ruin the island, rather than permit us to take it in that manner. But I deny, from the evidence before me, that the honorable Senator can produce any proof whatever to show that the Spanish government, in the present condition of affairs, intends to emancipate the slaves in Cuba, or, to use the honorable Senator's own language, that such a scheme as that is in process of execution.

MR. BENJAMIN.—Those of us who are aware of the system by which the island of Cuba is now governed can, by no possibility, entertain a doubt of the scheme which has been deliberately formed, and which, I repeat, is now in process of execution upon the island.

According to a recent proclamation, every slave in the possession of an individual who cannot show a registered title to him, is to be made free now upon the spot. If I am not misinformed, nearly one-fourth of those who are really slaves upon the island will be made free under the operation of this proclamation. There, sir, is the very first step toward what the legislature of Louisiana has termed the Africanization of the island of Cuba. This is the last piece of information that has come to us from that island.

My colleague [Senator Slidell], in a statement which he made a short time ago, that attracted so much attention in the

country, demonstrated to the Senate that the intention of the British government—and it has been fully shown in its correspondence and negotiations with the Spanish government—is to induce the latter government to consider the blacks and whites upon the island as one common population, to be taken care of and protected by one common set of regulations applicable to both classes of the population.

I shall not go further into this subject now, sir; but I refer to these facts for the purpose of showing that this is not an idle apprehension, that it is not one without foundation; and when the discussion comes up I think we shall be able to show the Senator such facts and such proofs as will shake even his well-formed conviction to the contrary.

SENATOR CLAYTON.—The negroes brought from Africa are detected by the very means to which my honorable friend has alluded—by the registries of the true slaves, the real native-born slaves, on every estate. The police officers visit the estate, and, by calling the roll, and examining the negroes, detect whether there are any recent importations. If so, they declare them free, and they are bound to declare them free under the treaties which Spain has made with foreign governments. Then they apprentice these slaves for one year, merely for the purpose of enabling these miserable, utterly ignorant creatures to live.

But, sir, my honorable friend, in the indulgence of his imagination, tells us that he thinks these negroes will be enlisted, and form a black corps of soldiers for the purpose of preventing any attack made on the island, or any insurrection in the island. They are wild negroes from Africa who have not been in the country a year. Would they not make a splendid regiment! I should like to know how you or anybody else would proceed to drill them and make them stand up in a fight.

SENATOR SEWARD.—Why should Spain, with \$1,000,000 income from Cuba, desire to renounce it? Why should she bury in the ocean her colony in America, the last relic of the new world given to her by Columbus? Her exigencies are as great now as in former times. Then, it is supposed that the British government is concerned in this movement. Sir, I entertain no doubt that it may be safely said that if Great Britain occupies any position in regard to this question now, it is a position which inclines her to prevent the extremities which are dreaded by the honorable Senators from Louisiana. Engaged in a war¹ which is almost certain to become a Continental war in

¹The Crimean.

Europe, Great Britain is now under bonds to keep the peace with our Government on this question. I see no reason, therefore, to impair the confidence of the commercial part of the community, and spread over them the dread of evils which may never come.

In the meantime a filibustering expedition against Cuba had been organized under the leadership of Gen. John A. Quitman, who had in 1851, while Governor of Mississippi, openly advocated the establishment of a Southern Confederacy.

On the 31st of May the President, at the instigation of Secretary Marcy, issued a proclamation against this expedition, in which he stated that "it is the duty of the constituted authority of the United States to hold and maintain the control of the great question of peace or war, and not to suffer the same to be lawlessly complicated under any pretence whatever." Quitman was arrested on the 31st day of July and released upon bail that he would observe the neutrality laws of the United States. That his action, however, in organizing the expedition was approved by the party in power is indicated by the fact that he was elected to the next Congress and put at the head of the very committee, that on military affairs, where he would be able to make his plans for the forcible annexation of Cuba most effective.

THE OSTEND MANIFESTO

Congress adjourned August 7, 1854. On the 16th Secretary Marcy instructed James Buchanan, John Y. Mason, August Belmont, and Pierre Soulé, the ministers respectively to Great Britain, France, The Hague, and Spain, to meet in order to arrange a plan for the purchase of Cuba. They did so on October 15, at Ostend, and three days later at Aix-la-Chapelle, where, on October 18, they issued what is called the "Ostend Manifesto."

In this document they stated the advantages to the United States and Spain in the purchase of the island,

and declared that failure of the project would be due to the jealous interference of other powers. The interest of the United States was said to be that of self-preservation, the elimination of a constant menace to its peace, and the interest of Spain was indicated by the intimation that, if it did not sell Cuba now, the United States, at the next insurrection in the island, would intervene in behalf of the Cuban patriots and wrest it from Spanish possession.

Secretary Marcy refused to endorse the Manifesto. On the 13th of November he wrote to Soulé stating that the threat to Spain was insincere, since the United States was not at the time menaced by the condition of Cuba. Thereupon Soulé tendered his resignation, which was accepted.

President Pierce in his annual message to Congress on December 4, 1854, ignoring the project of purchasing Cuba, simply stated that the relations with Spain were in the state in which they had been at the last session, and expressed the expectation that a new ministry which had been formed in that country would give a more favorable reception than had previously been accorded to our statement of grievances.

On the same day Augustus E. Sillers [Md.] moved in the House of Representatives that the President give information concerning the Ostend conference. The motion came up for discussion on the following day, when Thomas H. Bayly [Va.], chairman of the Committee on Foreign Affairs, asked that the resolution be referred to the committee. In the debate which ensued the main issue of the unprecedented nature of the conference was sidetracked for the irrelevant although timely one (owing to the Know-Nothing agitation) of sending foreign-born ministers to foreign courts.¹

The resolution was referred to the Committee on Foreign Affairs, which failed to report it, or indeed any measure on Cuba. Thus from time to time the matter slumbered, although the Cuban question was discussed.

In his annual message December 6, 1858, President Buchanan informed Congress that new negotiations had

¹ August Belmont was a native of Germany and Pierre Soulé of France.

been opened with Spain for the purchase of Cuba with every prospect of success and that it was therefore necessary for the national legislature to appropriate a sum sufficient to make a payment on account to the Spanish Government upon the signing of the treaty and before its ratification by the United States Senate. On January 10, 1859, John Slidell [La.] introduced a bill in the Senate appropriating \$30,000,000 for this purpose, and it was referred to the Committee on Foreign Affairs. On January 15 a caucus of the Democratic Senators declared in favor of supporting the purchase.

The Senate on January 18 requested the President to lay before it the correspondence between the two Governments in regard to the treaty. The President, in a special message on January 21, answered briefly that no such correspondence existed and that the Senate must trust to his discretion in the matter.

On January 24 the Committee on Foreign Affairs, through Senator Slidell, recommended the adoption of his bill. In his report the Senator declared that "the ultimate acquisition of Cuba may be considered a fixed purpose of the United States."

William H. Seward [N. Y.], in behalf of himself and Solomon Foot [Vt.], members of the committee, presented a minority report to the effect that the question should be postponed to the next session of Congress, when the President should report the condition of the treasury and of the army and navy, in order that Congress might be enabled to judge whether "it will be necessary to adopt any extraordinary measures to maintain the rights and promote the interests of the United States connected with their relations to Spain." It also authorized the President to convene Congress in extra session if the negotiations with Spain warranted this.

A debate followed the presentation of the minority report, in which Senators Seward and John P. Hale [N. H.] supported the report, and James A. Bayard, Jr. [Del.] and Robert Toombs [Ga.] opposed it, in behalf of the majority report.

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involves now a pledge, a guaranty, virtually a grant, or appropriation, of so many more millions of dollars as the President of the United States, without any recourse to the Senate or to Congress, and consulting only his own mere ambition, caprice, or pleasure, shall agree to give for that island; and this last amount is altogether unlimited.

The bill contains no limitations, and the President recommends no limitation. It is a bill, then, for just so many millions as the President shall choose to write in the treaty. What will be the number of those millions? The report of the majority of the committee says that it will probably be \$125,000,000. This calculation is based upon the fact that Spain refused \$100,000,000 ten years ago, and that Cuba has increased in value \$25,000,000, according to the estimate of the majority of the committee. This estimate is inconclusive, and, therefore, unsatisfactory. The amount which Spain will ask, if we suppose her to accede to this treaty, will be all that she can get, and the amount which the President will give, if it be his purpose to acquire the island of Cuba at all events and under all hazards, will be the least that Spain will consent to take.

This great increase of the public debt we are asked to make at the very hour when, in compliance with the Executive recommendation, we are proposing to authorize him to build the Pacific railroad at a cost of not less than \$125,000,000 more; and, simultaneously with this, in the same message, we are also asked to authorize the President to move the army into Mexico, which can cost nothing less than \$100,000,000 more; and, at the same time, in pursuance of recommendations of the same weight and authority, we are asked to authorize him to employ the army and the navy against just so many Spanish-American states on this continent as he shall choose, which can require nothing less than \$100,000,000 more; so, without any financial system at all, we are to have a great debt created by this Congress of the United States, on the recommendation and application of the President to strengthen the arm of the Executive, while weakening the power and the constitutional force of the Senate and the House of Representatives, a debt of \$500,000,000.

I have said that the bill has also a political aspect. It proposes to bring into the United States a foreign country, seven hundred miles long and seventy miles wide, containing one million five hundred thousand human beings—a population different entirely from the citizens of the United States; different in language, different in race, different in habits, different in

POLITICAL NECESSITY OF ACQUIRING CUBA

SENATE, JANUARY 24, 1859

SENATOR SEWARD.—Mr. President the bills which engage the attention of Congress generally originate either in the Senate or in the House of Representatives. But this measure is ushered into our presence by a message from the executive palace. It is, therefore, in its origin an executive measure. Its nature corresponds to its parentage. It proposes to relax constitutional and legislative restraints upon the executive power, and to transfer control over the treasury, together with the power of negotiation in foreign affairs, from Congress and from the Senate to the President of the United States. It is not an isolated executive measure of this kind, but it is one of a series of such measures which the President of the United States has introduced at the present session in the same way. One of this series proposes that Congress shall authorize the President to move the army and the navy of the United States into adjacent states of the republic of Mexico and establish a protectorate there. Another asks our consent to invest the President of the United States with the power to make war in his own discretion and at his own pleasure against all, or nearly all, the Spanish-American states on this continent.

A measure thus disparaging to the intelligence, the virtue, and the independence of the national legislature, a measure so dangerous to the civil and religious liberties of the American people, it must be expected, will receive at the hands of Congress a careful scrutiny. It is not my purpose at this time to bestow that scrutiny, in its full extent, upon the bill which has been reported in accordance with the recommendation of the President of the United States; but I do intend to indicate some of the considerations which have brought me to the conviction that this bill, under no circumstances, ought to receive the favor of Congress.

The bill has a financial aspect. It has also a broad political character. In regard to the financial aspect, I call the attention of the Senate to the fact that the bill proposes to appropriate now, at this time, out of the treasury of the United States, \$30,000,000, to be placed under the control of the President of the United States, to be paid by him to Spain, whenever she shall have consented to accept any treaty which he may make with her, for the cession of Cuba to the United States, without waiting for a ratification of that treaty by the Senate of the United States. This appropriation of \$30,000,000 necessarily

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manners, different in customs, and radically different in religion; a population that will, practically, forever hold the power to exclude all American immigration, at least to exclude it as effectually as the old states of Europe excluded our migration there, and as effectually as our old-established States practically exclude immigration from outside of their borders. This population, then, is to be the ruling population of that island. What rights will citizens of the United States enjoy there? The one million five hundred thousand souls are divided: one-half whites, two hundred and fifty thousand free blacks, and four hundred thousand slaves. What institutions of justice, of freedom, of religion, and public worship will obtain or remain there.

I have already shown that the consent of the Senate to the passage of this bill will operate as a constraint upon the Senate to ratify whatever treaty the President shall make hereafter. If this be true (and no one, I think, can controvert it), then I am asked to resign a constitutional, senatorial power, to the President of the United States and to shift from my own shoulders to his a constitutional responsibility.

To do this is a derogation of the independence of the constitutional power of the Senate of the United States, and a practical subversion of the constitutional check which requires that every treaty shall receive the votes of two-thirds of this body, or be absolutely void. It practically delegates to a bare majority of the Senate and to a majority of the House of Representatives the treaty-making power of this great empire.

Sir, if there ever was an occasion on which I should adhere tenaciously to this right and insist upon retaining this power, it would be in such a case as this. I want to see the treaty which shall bring the island of Cuba into the United States. I want to know the *status* which that country is to occupy. Is it to be a territory of subjects, of political slaves? a province, governed by armies and navies, as Spain now governs it? I may ask the President of the United States when he has executed the treaty. Is it to be a State? I may ask the President of the United States when he has executed the treaty. Who are to be the electors of the State? What is to be the *status* of the whole population? Are they to enjoy universal suffrage? What is to be the *status* of the free-negro population? What is to be the *status* of the slave population? We, who have disputed so earnestly, often so vehemently, year after year, year in and year out, over the question whether the institution of slavery shall be introduced into the Territory of Kansas, are expected by the President, in his simplicity, to allow him to determine for the North and

for the South, for the free States and for the slave States, at his own absolute pleasure, the terms and conditions upon which Cuba shall be annexed to the United States and incorporated into the Union. I say nothing of the present incumbent of the executive office. I say that men never chose, nor did God ever send on earth, a magistrate to whom I would confide this great question, having a constitutional right to decide it myself.

I need not say, sir, that all our treaties of annexation contain stipulations guaranteeing rights to the countries annexed, to be incorporated into the Union, and determining the future political rights, power, and authority of the inhabitants of those countries. This bill, then, is in derogation of the power of the Senate to determine by treaty for itself what the safety, honor, and welfare of the country demand in regard to the political organization and government of the island of Cuba, if it shall be acquired.

Sir, I have always received as a political maxim the declarations made by our predecessors in regard to the acquisition of Cuba. Every rock and every grain of sand in that island were drifted and washed out from American soil by the floods of the Mississippi, and the other estuaries of the Gulf of Mexico. The island has seemed to me, just as our predecessors have said, to gravitate back again to the parent continent from which it sprang. I have supposed that political necessities would determine that ultimate conclusion; and I know that to political necessities all actions of governments must bend, and all sentiments of nations must accommodate themselves. I have nevertheless, been taught, with the same maxim, this other rule, that the acquisition of Cuba is a question of time, of necessity, and of opportunity. Our forefathers said, all our predecessors have said, that when the juncture shall arise that there should be just that necessary decline of the political European power on the continent, and just that development of American power here, which makes Spain unable to keep and ourselves able freely to obtain, the island, then it would be hopeless and idle to refuse to receive Cuba, even if it were undesirable. They have said more, and I subscribe to it, that we may safely hold our souls in patience so long as Spain can keep it, and no other and stronger European power can, or dare, take it from her. What I have to say now is, that the time and opportunity do not now serve, in my judgment, any more than they served for the last sixty years. We may be nearer, as, indeed, I doubt not we are, to the acquisition of Cuba; but we have not arrived at the point at which the acquisition must necessarily be made, or can be made,

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human progress, are deeply involved in the acquisition of Cuba by the United States, even the chance of an advancement toward that acquisition I should be willing to encourage when it came from any source entitled to decent respect. Now, sir, it may be that this bill, when it passes, will not enable us to acquire Cuba; but, in the judgment of the Executive, such a recommendation has been made. I can see no injury to the country if we pass the bill and fail to attain the object; but it is an object of importance to the country, and the ultimate benefit of it will fully sanction us, in my judgment, in the passage of the bill.

SENATOR TOOMBS.—Mr. President, the speech of the honorable Senator from New York is remarkable, certainly, for two things: The first is personal to himself; and I am very happy to congratulate him and the country that at last he has concluded that economy is an element in national policy, which, heretofore, he seems generally to have ignored. The next important and remarkable feature in the speech of the Senator is, that he comes to no conclusion upon the main question. He throws out a number of objections to the proposed mode of action; but he declines, or he fails to express, any opinion upon the merits of this great question of national policy now about to be inaugurated.

The Senator intimates, in the first place, that if it is not a violation of the Constitution, it is surrendering the constitutional rights of this body. In what respect? The question of the right of the Government of the United States to acquire territory by purchase, or by war, or in any other mode it may see proper, according to the law of nations is, I presume, no longer open to observation. It has been settled by the concurrent judgment of all parties, and by a construction of the Constitution now no longer open to dispute. Then, if the right to acquire a country by purchase is a conceded point in our public policy, it is not in derogation of any of the rights of the Senate of the United States that we should appropriate this money. We propose to appropriate money by law, as we have done frequently before. I know there is a constitutional inhibition against the President, or anybody else, using money, unless it be appropriated by law; but, inasmuch as this is a constitutional object, we propose to do that very thing. Conceding that the policy of acquiring Cuba by purchase is a wise policy, the question is submitted to the Congress of the United States, both the Senate and House of Representatives, whether, if it be a wise and proper object, deserving of appropriations of the public

consistently with the conditions of peace, prudence, justice, and the national honor.

But there are circumstances about this bill which satisfy my mind that it is not expected, that it is not intended, that Cuba shall be acquired in consequence of this proceeding; but that some other advantage, some domestic and local benefit, will be secured to the President of the United States by provoking a debate on this subject in Congress. Sir, I do not so much undervalue the intelligence of the American people as to apprehend any such result. The proposition seems to be an empty one, an idle one, a ludicrous one; and, if it were not for violating the respect due to the President of the United States and the majority of the committee who sanction it, I should say a ridiculous one. There is a play which we have sometimes seen at the theater, in which the heroine is an honest housewife who has a propensity for buying things at auction. One day she bought a huge door-plate sold at an auction of a neighbor's furniture, on which was inscribed in large letters the name of "Thompson," spelled with a "p," although her own name, as well as her husband's, was Toodle. When the indignant Mr. Toodle called her to account for the expense, "why," she said, "how do you know, my dear, that we shall not one day have a child, and that that child may not be a daughter, and that that daughter may not be married to somebody, and, just as likely as not, that somebody will be a man named 'Thompson,' and his name may be spelled with a 'p' [laughter], so it will then just fit exactly. I could not help buying it, because it was so cheap, and it will be so handy, you know, to have it in the house." That, sir, is exactly the value of this great presidential demonstration, made, I think, to retrieve the sinking and wasting fortunes of an administration that has disappointed its own immoderate desires not more than the less sanguine expectations of the American people.

SENATOR BAYARD.—Mr. President, there may be many things which the honorable Senator from New York may consider unattainable, wild, or extravagant that may yet be perfectly practicable; and so, too, it may be that there may be many objects which the honorable Senator may consider attainable, and which yet may turn out not to be within his reach. The question is as to the propriety of passing a bill, in accordance with the recommendation of the Executive, which is founded upon the probability, under that recommendation, of the acquisition of Cuba by the United States. Believing, myself, that the future interests, not only of this country, but of civilization and of

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money, we shall enable the President of the United States to inaugurate it by this appropriation.

As to our revenue system, I consider it equal to the wants of the country. The question is not with this republic now, where are we to get money from? but our financial system for the last fifteen or twenty years has been an effort how not to raise it. Even when you have drawn tariff bills with the express view of putting down surpluses, of reducing the revenue, of getting less of it than an ordinary system would bring, you have failed in the effort. Most of the nations of the world have been driven to extraordinary shifts, certainly in war and often in peace, to know how to raise the wind—in what manner to raise money enough to carry on their governments. The man who could invent a new tax, even in England, has been awarded great financial talent.

But in this country the whole ingenuity and talent of all sides, especially of gentlemen holding the political opinions of that Senator, have been devoted to the problem how not to raise money enough. Such is the wealth of the country, such are its vast productions, that the question is not one of raising enough for the economical wants of the Government, or even for the extravagant wants of the Government; but the question with that Senator and his friends is how to raise revenue so as to benefit particular branches of industry at the expense of other branches of industry. We should have no trouble at all about raising revenue, if that was the object; we should have no difficulty about knowing what rate of taxation would produce a sufficient amount for us, or would bring in a greater amount or a lesser amount than was necessary; but we have complicated it by schemes to lay taxation in such a way as to benefit particular interests, so that persons come to Congress and seek by legislation to obtain benefits in their own private pursuits. That is the difficulty we have.

The Senator seems to object to this acquisition with reference to its political aspects. I do not see that they are changed at all by this measure. Admit that there is force in the idea of the Senator from New York that he wants to know the *status* of the seven hundred and fifty thousand white people, the two hundred and fifty thousand free negroes, and the four hundred thousand slaves in Cuba, he will still have that question before him when the treaty shall be made and come up here for ratification. This bill does not propose to affect it at all. It will stand then where it would stand if you made the treaty without the bill. When we acquire the island of Cuba, the annexation

of which I look upon as important to the country, I am content that my own countrymen shall settle the *status* of all the people there according to the Constitution of the United States.

But I will remark to the honorable Senator that I consider that question as already settled; I have no difficulties upon it. I consider that it has been settled by the American people; a settlement with which I am content; which I do not believe he will be able to shake; which I believe will stand unshaken when he and I shall have passed away from the stage; that will outlive him and outlive the country itself. It is that, while the territory stands as a dependency of this republic, it shall be open to settlement by all the people of the republic, North and South, East and West, with ample constitutional protection to all property held in any of the States; and when it takes its position among the free and independent States of this Union, it will then settle for itself what shall be the *status* of all colors and of all races within its borders. That is the principle on which I think this question has already been settled by the verdict of the American people, and I am content to stand on that principle; and hence I feel no difficulty about the acquisition.

Now, sir, is this acquisition desirable? Is it a matter on which we ought to risk so much money as \$30,000,000 for the chance of opening more favorable negotiations? I think it is. I know of no portion of the earth that is now so important to the United States of America as the island of Cuba is. We speak of the trade of India; and some of the friends of a Pacific railroad tell us that, when that railroad shall be constructed, it will bring the trade of Asia to our continent, and that we shall get at least the profits of the transportation of the wealth of the Indies. Sir, this wealth is at our feet; but they know it not.

If you could fill up the ocean, and lay a perfectly level railroad to-day from San Francisco to Shanghai, it would be no benefit, because you can now bring products from Shanghai to New York for ten dollars a ton when freights are low, and for twenty dollars a ton at the customary freights. As the Senator from Massachusetts [Henry Wilson] fully and satisfactorily demonstrated the other day, it would be impossible to carry freight over a railroad to the Pacific. I say then, that such a road cannot advance us in obtaining the control of the trade in those products; but we have all the wealth which ever came from the East Indies to-day in the West Indies, and the only question of foreign policy which is worthy of the consideration of American statesmen is the tropical empire lying

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tors. It is too feeble a tenure. If I did, I have shown by my votes that I have not feared them. Whenever any State, Minnesota or Oregon, or any other came, no matter where from, if she came on principles which were sufficient in my judgment to justify her admission into this great family of nations, I have never refused her the right hand of fellowship. I did not inquire whether you had seventeen or eighteen free States. If you had fifty it would not alter my vote. The idea of getting one slave State would have no effect on me. But Cuba has fine ports, and with her acquisition, we can make first the Gulf of Mexico, and then the Caribbean sea, a *mare clausum*. Probably younger men than you or I will live to see the day when no flag shall float there except by permission of the United States of America. That is my policy. I rose more with a view to declare my policy for the future, that development, that progress throughout the tropics was the true, fixed, unalterable policy of the nation, no matter what may be the consequences with reference to European powers.

SENATOR HALE.—Mr. President, I hope to be relieved from the censure which the honorable Senator from Georgia has made on the Senator from New York, and that is that he has not expressed plainly his views on the main proposition. I am opposed to it utterly, totally, and entirely. I remember, sir, for it is some years since this matter of acquisition has been talked of in this country, that it was first inaugurated under the genius of what was called "manifest destiny"; but I see that manifest destiny has been ridden to death; we have got rid of it, and now succeeds to "manifest destiny," "political necessity." I want to examine that a little. I do not know but what it is necessary that this should come under the auspices of "political necessity"; because I believe the doctors who taught in the school of "manifest destiny" only contend that manifest destiny extended over the whole continent, and now we are to leave the continent and go to sea; we must have a new era and we are to take "political necessity"; and I suppose that is the reason of the change. I am opposed to them both for this reason. Although it was the mission of "manifest destiny" to take in the whole continent, he never seemed to remember that there was a north side of it. He was always traveling South. [Laughter.] So wanting in fidelity to his mission was "manifest destiny," that was to overrun this whole continent, so engrossed was he in looking South, that while his mission has been proclaimed, and he was attending to Southern interests, the Administration actually gave way—with a mere dash of

at our feet, and it ought to be declared to be our settled policy—not by force, not by violence, not by depriving the rightful possessors of their present possessions—to be the American policy to unite, as fast as it can be fairly and honestly done, all the tropics under our flag.

We have now the command of one of the great elements of human commerce—cotton. We have now the command of the bread of the world. We have their bread and their clothing. Give us Cuba, give us the West Indies, and we shall command all the other wants of the human race; we shall control their commerce in everything; we shall control their tonnage, and it will be of more value even to the Northern people than to the South. It will bring a competitor in tropical fruits and sugar to a portion of the Southern States. Cuba is exactly in the condition the most favorable possible to break off all commercial restrictions for the benefit of New England and the entire North. She does not grow beef except to a very small extent, and pork not at all; she has no manufactures; she has no iron. She raises everything that the North wants, and she would be the best customer in the world for every article of their industry. There is no production in New England that cannot find a market in Cuba. There is just the point for an exchange of commodities from which the most beneficial commerce the world ever saw will result. Therefore, I say, the manufacturing States, the grain-growing States, have the greatest interest in this acquisition. They can get there sugar and coffee and West Indian fruits, which they can sell to all the world, and increase their exports. They can exchange products with Cuba without duty, with entire internal free trade, and there will be built up a home market for their manufactures, such a market as can be found in no other habitable part of the globe. Here is a natural exchange of products, arising from locality and climate and soil. It will be nature's commerce; beneficent, prosperous, beneficial to all engaged in it. It does not need laws; it does not need restrictions; it requires no ingenuity to show that that commerce will be a beneficial one to all concerned in it, especially to the Northern and Middle States; it will not benefit the South to the same extent.

Some may think that we go for it because by this means we shall have one more slave State in the Union. I know that the Senator from New York at the last session alluded to the comparative number of slaveholding and non-slaveholding States; but I never considered that my rights lay there; I never considered that I held my rights of property by the votes of Sena-

the pen—that magnificent empire from the Rocky Mountains to the Pacific ocean, and from 49° to 54° 40' north latitude.

Whenever we have had to deal with "manifest destiny" or "political necessity" in any treaty relating to our Northern boundary, it has been to cut off; and, if we could not sell out, we gave away, while we have been continually traveling south for acquisitions. This may be all accidental; probably it is; but, if you ever read Pickwick, sir, you remember that, as Sam Weller says, it was a most astonishing coincidence. [Laughter.]

Now, sir, I dissent from that whole policy which says it is American policy to be continually annexing foreign nations to us. I am for improving what we have got; I am for developing our own resources; and I am for applying the means that we have to the improvement of what we have got. I should like to know where the constitutional power comes from. It is said there is no power to build a railroad to the Pacific ocean unless it be a war measure. I am utterly opposed to that whole doctrine, that we have no power to make a railroad from here to the Pacific ocean unless it can be demonstrated that it is absolutely necessary and indispensable as one of the means of carrying on war. Sir, the Government of the United States have power to make peace as well as to make war; and if, as the proclamations of war usually say, the purpose of entering into a war is to procure an honorable peace, the country ought to have some energy to do something to foster and nourish and develop its interests in peace as well as in war. But, sir, this modern doctrine that you can expend anything and everything for war measures, and nothing for peace, I utterly dissent from. Here you may spend \$150,000,000, if it is necessary, for purposes of war; but if you are asked for fifty cents for any of the great purposes of peace, of commerce, of the arts, this gigantic Government is seized with paralysis, and cannot move a finger for any of the purposes of peace, or any of its arts, or any of its interests; but it is omnipotent for all the purposes of war.

WILLIAM M. GWIN (Cal.)—As the gentleman is on the subject of the Pacific railroad, I wish he would give way and let us take up that bill and go on with it. [Laughter.] It is a better subject than this, a great deal. [Laughter.]

SENATOR HALE.—I can only say to my friend from California, as the Archbishop said to Gil Blas, I wish you all manner of prosperity, and more taste than to interrupt me again [laughter]; but I will give way.

By the obstructive tactics of the Republican Senators the bill was not brought forward for a vote until late in the session. On February 21 Senator Slidell succeeded in getting the measure squarely before the Senate. On that very day newspapers reached Washington with the report that Spain had rejected with scorn the proposition of the United States to purchase Cuba, and "was disposed to demand due satisfaction for such an insult." William H. Seward read this report in the Senate, but Slidell still pushed the measure. Anthony Kennedy [Md.] then declared (on February 25) that the purpose of the promoters of the bill must be to excite Spain to war, in which Cuba would be the booty of the United States. This purpose was frankly admitted on the same date by Stephen R. Mallory [Fla.] and Albert G. Brown [Miss.]. Senator Mallory said that if Spain continued stubborn it "should be given openly to understand that the United States would do as Frederick the Great had done with Silesia—that is, first take Cuba and then talk about it." Senator Brown said:

I am for the acquisition of Cuba, and I want to advertise to all the world that we mean to have it—peaceably if we can, forcibly if we must. I am willing to pay for it, or I am willing to fight for it. I would advertise to the world that we mean to have it; and I look upon this bill as nothing more than a mere advertisement that the United States desire Cuba, and mean to have it.

The Republican Senators having used every parliamentary device to prevent a vote on the bill, which had now become the pet measure of the Administration, Robert Toombs [Ga.] called them cowards, mentioning William H. Seward [N. Y.] in particular. To this charge Senator Seward replied on February 25, casting back the charge upon his opponents and denouncing the President as the most arrant and despicable poltroon of them all.

The session of February 25 was prolonged into the following day. It was moved to table the bill, and the motion was lost by 30 nays to 18 yeas. Encouraged by this vote, Senator Slidell announced that the bill would

be pushed to a finish, and moved to adjourn; his motion was carried. On the following day, after conference with the leaders of his party, he reconsidered his determination and, saying that the vote to table had shown that the sentiment of the Senate was in favor of the "principle of the bill," he announced that, out of consideration for the other appropriation bills which were being held up by the fight over this one, the friends of the measure had decided to postpone it until the following session of Congress.

Owing to the impending Civil War the measure was not acted upon at the following session.

CHAPTER IV

THE WAR OF CUBAN INDEPENDENCE

The Cuban Revolt—President Cleveland's Message in Regard to It—Senators J. Donald Cameron [Pa.], Roger Q. Mills [Tex.], Wilkinson Call [Fla.], Shelby M. Cullom [Ill.], Horace Chilton [Tex.] Present Joint Resolutions Recognizing Independence of Cuba; David B. Hill [N. Y.] Presents Joint Resolution Recognizing Belligerency of Both Contestants and Pledging the United States to Neutrality—Debate: Senator Cullom, Senator Call, Senator Mills, Augustus O. Bacon [Ga.], David Turpie [Ind.]; Resolutions Are Not Acted Upon—President McKinley's Messages on the Cuban War—Cushman K. Davis [Minn.] Presents in the Senate Joint Resolutions of Majority of Committee on Foreign Relations upon Intervention in Cuba—Minority Report—Debate: in Favor of Majority Report, Senator Davis, Stephen B. Elkins [W. Va.], Henry Cabot Lodge [Mass.], George F. Hoar [Mass.], Charles W. Fairbanks [Ind.]; in Favor of Minority Report, Joseph B. Foraker [O.], William E. Mason [Ill.], John W. Daniel [Va.], Henry M. Teller [Col.]; Eugene Hale [Me.] Offers Substitute; David Turpie [Ind.] Moves Amendment to Majority Resolution Recognizing the Insurgent Government; It Is Passed; Senator Davis Moves Amendment Disclaiming Annexation of Cuba; It Is Accepted, and Resolutions Are Passed—Robert Adams, Jr. [Pa.] Presents in the House Joint Resolutions on Cuba of the Majority of Committee on Foreign Affairs; Minority Resolutions Are Presented—Debate: in Favor of Majority Resolutions, Mr. Adams; in Favor of Minority Resolutions, Hugh A. Dinsmore [Ark.]; Majority Resolutions Are Passed—Conference Committee Reports Compromise Resolutions, Which Are Passed by Senate and House and Approved by President—War with Spain—Treaty of Peace.

THE Cuban patriots had extorted the promise of reforms from the Spanish Government by a rebellion extending from 1868 to 1878. Spain agreed to allow Cuban representation in the Cortes (Spanish parliament), and the Cuban Liberal party was formed to secure fulfilment of the pledge. In 1880 the Cortes abolished slavery in the island. The government, however, continued oppressive in other respects, such as taxation, favoritism, and plunder in official ad-

ministration, etc., and a new and formidable revolt was inaugurated in 1895 under Generals Gomez, Maceo, and Garcia. Spain sent General Martinez Campos to subdue the insurrection. He was unsuccessful, the insurgents finally, in February, 1896, hemming the Spanish forces in Havana. Accordingly, in that month, the



Spanish Government replaced General Campos by General Weyler, a soldier of more aggressive and ruthless temper. By his adoption of reconcentration, the policy of compelling the Cuban natives to come in from the fields and herd together in cities under the control of Spanish troops, the insurgents were deprived of their former ever available sources of supply and harborage. This order caused great distress among the "reconcentrados," who were reduced to a pitiful degree of starvation, and in their enfeebled and crowded condition were decimated by disease. So earnest was the protest of the American people against Weyler that he was

recalled toward the close of 1897, and General Blanco sent in his stead.

While Weyler was still in power President Cleveland, in his annual message of December 7, 1896, thus referred to the Cuban situation.

THE INSURRECTION IN CUBA

PRESIDENT CLEVELAND

The insurrection in Cuba still continues with all its perplexities. It is difficult to perceive that any progress has thus far been made toward the pacification of the island. If Spain still holds Habana and the seaports and all the considerable towns, the insurgents still roam at will over at least two-thirds of the inland country. If Spain has not yet reestablished her authority, neither have the insurgents yet made good their title to be regarded as an independent state. The entire country is either given over to anarchy or is subject to the military occupation of one or the other party.

In pursuance of general orders Spanish garrisons are now being withdrawn from plantations and the rural population required to concentrate itself in the towns. The sure result would seem to be that the industrial value of the island is fast diminishing, and that unless there is a speedy and radical change in existing conditions it will soon disappear altogether.

The spectacle of the utter ruin of an adjoining country, by nature one of the most fertile and charming on the globe, would engage the serious attention of the Government and people of the United States in any circumstances. In point of fact, they have a concern with it which is by no means of a wholly sentimental or philanthropic character. It lies so near to us as to be hardly separated from our territory. Our actual pecuniary interest in it is second only to that of the people and government of Spain. It is reasonably estimated that at least from \$30,000,000 to \$50,000,000 of American capital are invested in plantations and in railroad, mining, and other business enterprises on the island. The volume of trade between the United States and Cuba, which, in 1889, amounted to about \$64,000,000, rose in 1893 to about \$103,000,000. Besides this large pecuniary stake in the fortunes of Cuba, the United States finds itself inextricably involved in the present contest in other ways both vexatious and costly.

Many Cubans reside in this country and indirectly promote

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finally, that, all other methods failing, the existing internecine strife in Cuba should be terminated by our intervention, even at the cost of a war between the United States and Spain—a war which its advocates confidently prophesy could be neither large in its proportions nor doubtful in its issue.

The correctness of this forecast need be neither affirmed nor denied. The United States has nevertheless a character to maintain as a nation, which plainly dictates that right and not might should be the rule of its conduct. Further, though the United States is not a nation to which peace is a necessity, it is, in truth, the most pacific of powers, and desires nothing so much as to live in amity with all the world. Its own ample and diversified domains satisfy all possible longings for territory, preclude all dreams of conquest, and prevent any casting of covetous eyes upon neighboring regions, however attractive. That our conduct toward Spain and her dominions has constituted no exception to this national disposition is made manifest by the course of our Government, not only thus far during the present insurrection, but during the ten years that followed the rising at Yara in 1868. No other great power, it may safely be said, under circumstances of similar perplexity, would have manifested the same restraint and the same patient endurance.

It is in the assumed temper and disposition of the Spanish government to remedy Cuban grievances, fortified by indications of influential public opinion in Spain, that this Government has hoped to discover the most promising and effective means of composing the present strife, with honor and advantage to Spain and with the achievement of all the reasonable objects of the insurrection.

It would seem that if Spain should offer to Cuba genuine autonomy—a measure of home rule which, while preserving the sovereignty of Spain, would satisfy all rational requirements of her Spanish subjects—there should be no just reason why the pacification of the island might not be effected on that basis. It has been objected, on the one side, that Spain should not promise autonomy until her insurgent subjects lay down their arms; on the other side, that promised autonomy, however liberal, is insufficient, because without assurance of the promise being fulfilled.

Realizing that suspicions and precautions on the part of the weaker of two combatants are always natural and not always unjustifiable—being sincerely desirous in the interest of both as well as on its own account that the Cuban problem

the insurrection through the press, by public meetings, by the purchase and shipment of arms, by the raising of funds, and by other means, which the spirit of our institutions and the tenor of our laws do not permit to be made the subject of criminal prosecutions. Some of them, though Cubans at heart and in all their feelings and interests, have taken out papers as naturalized citizens of the United States, a proceeding resorted to with a view to possible protection by this Government, and not unnaturally regarded with much indignation by the country of their origin. The insurgents are undoubtedly encouraged and supported by the widespread sympathy the people of this country always and instinctively feel for every struggle for better and freer government, and which, in the case of the more adventurous and restless elements of our population, leads in only too many instances to active and personal participation in the contest. The result is that this Government is constantly called upon to protect American citizens, to claim damages for injuries to persons and property, now estimated at many millions of dollars, and to ask explanations and apologies for the acts of Spanish officials, whose zeal for the repression of rebellion sometimes blinds them to the immunities belonging to the unoffending citizens of a friendly power. It follows from the same causes that the United States is compelled actively to police a long line of seacoast against unlawful expeditions, the escape of which the utmost vigilance will not always suffice to prevent.

These inevitable entanglements of the United States with the rebellion in Cuba, the large American property interests affected, and considerations of philanthropy and humanity in general, have led to a vehement demand in various quarters for some sort of positive intervention on the part of the United States. It was at first proposed that belligerent rights should be accorded to the insurgents—a proposition no longer urged because untimely and in practical operation clearly perilous and injurious to our own interests. It has since been and is now sometimes contended that the independence of the insurgents should be recognized. But, imperfect and restricted as the Spanish government of the island may be, no other exists there—unless the will of the military officer in temporary command of a particular district can be dignified as a species of government. It is now also suggested that the United States should buy the island—a suggestion possibly worthy of consideration if there were any evidence of a desire or willingness on the part of Spain to entertain such a proposal. It is urged,

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should be solved with the least possible delay—it was intimated by this Government to the government of Spain some months ago that, if a satisfactory measure of home rule were tendered the Cuban insurgents, and would be accepted by them upon a guaranty of its execution, the United States would endeavor to find a way not objectionable to Spain of furnishing such guaranty. While no definite response to this intimation has yet been received from the Spanish government, it is believed to be not altogether unwelcome, while no reason is perceived why it should not be approved by the insurgents. The friendly offices of the United States will always be at the disposal of either party.

Whatever circumstances may arise, our policy and our interests would constrain us to object to the acquisition of the island or an interference with its control by any other power.

It should be added that it can not be reasonably assumed that the hitherto expectant attitude of the United States will be indefinitely maintained. While we are anxious to accord all due respect to the sovereignty of Spain, we can not view the pending conflict in all its features and properly apprehend our inevitably close relations to it and its possible results without considering that, by the course of events, we may be drawn into such an unusual and unprecedented condition as will fix a limit to our patient waiting for Spain to end the contest, either alone and in her own way or with our friendly coöperation.

When the inability of Spain to deal successfully with the insurgents has become manifest and it is demonstrated that her sovereignty is extinct in Cuba for all purposes of its rightful existence, and when a hopeless struggle for its reestablishment has degenerated into a strife which means nothing more than the useless sacrifice of human life and the utter destruction of the very subject-matter of the conflict, a situation will be presented in which our obligations to the sovereignty of Spain will be superseded by higher obligations, which we can hardly hesitate to recognize and discharge. Deferring the choice of ways and methods until the time for action arrives, we should make them depend upon the precise conditions then existing; and they should not be determined upon without giving careful heed to every consideration involving our honor and interest or the international duty we owe to Spain. Until we face the contingencies suggested, or the situation is by other incidents imperatively changed, we should continue in the line of conduct heretofore pursued, thus in all circumstances exhibiting our

obedience to the requirements of public law and our regard for the duty enjoined upon us by the position we occupy in the family of nations.

On December 9, 1896, three joint resolutions in reference to Cuba were introduced in the Senate.

J. Donald Cameron (Pennsylvania) presented the following:

Resolved, That the independence of the republic of Cuba be, and the same is hereby, acknowledged by the United States of America.

Resolved, That the United States should use its friendly offices with the government of Spain to bring to a close the war between Spain and Cuba.

Roger Q. Mills (Texas) presented a resolution directing the President to take possession of Cuba and establish a protectorate there until the inhabitants had organized a self-protecting government.

Wilkinson Call (Florida) presented a resolution recognizing the Republic of Cuba.

The first two resolutions were referred to the Committee on Foreign Relations, and the third was tabled at the mover's request.

On December 10 Shelby M. Cullom (Illinois) introduced in the Senate the following joint resolution:

Resolved, That the extinction of Spanish title and the termination of Spanish control of the islands at the gateways of the Gulf of Mexico are necessary to the welfare of those islands and to the people of the United States.

CUBAN INDEPENDENCE

SENATE, DECEMBER 10, 1896-JANUARY 26, 1897

Senator Cullom supported his resolution.

The decision of the questions arising and to arise, and the determination of the policy to be pursued by this Government in the near days of the future, will command the exhibition of high patriotism, not less than of wise action, upon our part. We are already placed in such position that some certain course of action must be adopted. Whatever that course may be, it

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to declare a new and advanced watchword for the civilized world. If we fail to keep up with the march of sentiment and to mold into effective law such salutary principles as we solemnly believe are just and right, and demanded by the progress of the world, we shall neglect a high duty and privilege and omit a sublime opportunity.

If we wait for precedent we shall wait forever. If a precedent is needed we shall make one.

We violated every precedent by the declaration of our own independence on July 4, 1776. When we announced the Monroe doctrine in 1823, it was in defiance of precedent, and was the determination of a rule which has become a law and will never be gainsaid.

We now have reached the time to take another step in advance.

We have already proclaimed that the United States will have something to say regarding matters affecting the American continent, and we should now announce that the speedy termination of Spanish control of the islands at the gateway of the Mexican Gulf is necessary alike to the welfare of those islands and to the people of the United States.

Cuba to-day is lost to Spain. The public proclamation of Spanish defeat may not have been officially and definitely announced, but in truth and fact the submission of Cuba will never again be yielded as of old. The tribute of twenty-five to forty million dollars annually, so long exacted, will never again replenish the treasury of Spain. The struggles of 1895 and 1896 may sadly cripple Cuba, but they will ruin Spain. Cuba, with its wonderful soil and climate, and its unparalleled capabilities, will regain in material wealth and growth under benign influences far more than she has lost. The blood of her people spilled upon her soil will yield a growth of independent citizenship consecrated to liberty. This age is not an age of retrogression. The world of to-day is not wedded to barbarism in order to perpetuate tyranny or relieve tottering dynasties.

Shall it be that the nation where the Inquisition found a congenial home and where the so-called Holy Brotherhood was established for the crushing out of life and liberty and where manhood and womanhood were made the playthings of brutal might—shall it be that the incoming century will chronicle a longer continuance of such power almost within sight of the unfurled Stars and Stripes?

The American people are coming to the consideration of the

must be such as shall give proper recognition to the rights, under existing conditions, belonging respectively to Spain and to Cuba. It must also recognize the rights and prerogatives of the world at large—of the nations and the people who stand aloof and watch with deepest interest this struggle for independence and for liberty against absolutism. And not the least of the responsibilities imposed upon us as a nation is the conservation of our own rights and interests. In fact, this latter is the determining factor which must control our course.

While I am not disposed to criticize President Cleveland, I may properly say that I had hoped he would find occasion to give more positive or emphatic expression of the true American continental policy, which ought to be invoked in all cases where the liberty and independence of any of the peoples of the American continent are involved. And, further, I think we ought never to hesitate or delay when the lines of this policy run parallel and coincident with those of common humanity.

If this position shall strike the mind as being too much in advance of the conservatism which has heretofore obtained in all the schools of diplomacy, I may say that that advance is what the world is waiting for. Must the opening of the twentieth century find free America still bound and held by canons dictated for the perpetuation of monarchical power? Under that antiquated conservatism there never would have been erected on the earth the nation which we love and to the establishment of which our fathers consecrated their lives, their fortunes, and their sacred honor.

The conservatism which adheres to the precedents born in ancient monasteries and clings to an iron-bound monarchism never built a public schoolhouse nor lived in a free land. Humanity and advancement travel together, and dwell only in the climate of republics.

All the diplomacy of all the ages never found a way by which slavery could be dethroned. It required the humanity of Lincoln to break the chains, and the progress of the Republic to open the prison walls to liberty and make glad a waiting world.

The United States must to-day give vitality to her sympathy for the oppressed and the weak. I desire to urge and to claim a policy and the adoption of a doctrine for our nation in advance of that which has heretofore been sanctioned. The United States, by virtue of our history, of our origin, our growth, and our proud and proper place in the world, is the chosen country to put a new chapter into the code of international statutes and

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Cuban situation as they already have in certain other cases, as a great political question, a continental question, if you please. And being a political continental question, it will be decided ultimately by the continent whose interests are most clearly involved. Geographically considered, Cuba cannot belong to Spain. Cuba is in American waters and politically it is entitled to statehood in the Continent of American Republics.

Has the United States no interest in our own trade and commerce with an island from which we receive fully 90 per cent. of the vast sugar product and much the larger part of all her other productions? The interests of the United States, counting all things passing between the two countries, reach perhaps \$100,000,000 annually, and already this trade has been practically wiped out. The Cuban exports of sugar alone have fallen during the current year—1896—from above a million tons to less than a hundred thousand. The tobacco trade is dead. Neither will revive until war stops and the Spaniards get out of Cuba. That is the only solution of the trade problem.

It is about time that this free country ceased to be a police establishment for the aiding of the most outrageous warfare against a struggling people. The Spanish Government three weeks ago bought and shipped for General Weyler numbers of mules and horses raised in this country and purchased in Missouri and other Western States. Under present stringent rules as applied by our Government, every Federal official is a spy to inform against any attempt to convey arms or clothing or supplies to General Gomez or General Maceo, or the Cuban army. Men are now under arrest in the United States for attempting to succor their friends and relatives in Cuba. Has Spain any sympathy for or friendship with this country? Americans have been imprisoned and punished in Cuba for even expressing sorrow for the poor young medical students who were cruelly shot and murdered in Habana a few years ago. There is not a family of any standing in Cuba which has not lost one or more of its members by arbitrary arrest and sunrise murder by armed troops, who marched their victims to the place of blood and shot them in the back.

In the present war, which has lasted about twenty-one months, Spain has wasted over a hundred millions, and has put into the field possibly 200,000 men and boys. Spain is beggared to-day, and unless she can continue her grasp upon Cuba she will show to the world the end of the worst-governed country known in two thousand years.

I believe it to be the duty of the United States to use the

great power attaching to the nation to declare and to maintain, as a prerogative of right, belonging generally to republicanism, and specifically to this Republic, that no charnel house of ruin shall be continued in the West Indian waters, whose waves break at our very front gate, any longer than the time it shall require to break it up. I put it on that ground, and on the ground of humanity as well, because the world knows that no humanity is manifested there on the part of the Spanish army. And if the duty of suppressing this damning blot and erasing it forever from sight shall fall alone upon the United States, so be it. Have we fallen so low as to have forgotten the sacrifices which men of genius and character and honor made in behalf of this country in its days of trouble? Have we forgotten and enshrouded the glorious memory of Lafayette? Have we turned to the wall the pictures of Pulaski, of Steuben, of De Kalb, and others long since in glory? These men cast their lives and their fortunes at our feet that we might succeed. But we shall not stand alone in the warfare which may follow in behalf of common humanity. Nation after nation will make joint cause with us in such a struggle, and when we have succeeded and shall have made into law the principle, and made into history the fact, every other country worth naming will regret its mistake in not participating in the humane work.

The effort cannot fail. We shall not wage any warfare for the acquisition of territory for ourselves. We shall not claim Cuba as a reward for saving her from the slaughter, but we will not see that fair island turned again to the mercies of wild beasts and vultures of war whose only stimulus is gain. Cuba libre—free Cuba—is the reward, and what a glorious reward will that be! Every citizen of the United States will feel that his birthright as an American freeman will mean something. Every lover of liberty the world over will exult in the progress and advancement of man. The breadth and stature of individual Americanism will be enlarged and ennobled. Society will feel that its doors need not be closed against wrong and oppression, for there will be none who dare molest and make afraid. A settlement is to be had. A settlement must be made. The account has been open and running long enough—yes, far too long. To its settlement we may properly invite the coöperation of all the republics of the American Continent. But the end of the devastation must be determined. The United States must furnish the occasion, if it does not otherwise arise.

If other means fail we may consider the propriety of a fair purchase of Cuba. That method has had its share of considera-

By recognizing the only power that over two-thirds of that island can protect the American citizen and the property of the citizen of the United States found there.

What better argument for the passage of this resolution is there than the fact that Spain is impotent to enforce the rights of American citizens in the territory of Cuba? We may demand of Spain indemnity; we may insist that she shall give the protection needed; but how can she do it when she is compelled to withdraw her forces and to maintain them in the garrisons and the cities of the Gulf?

Mr. President, the first duty of this country is to protect its citizens. How was it in the case of the *Virginias*? What did the Government of Great Britain do? They demanded at the muzzle of the cannon that there should be delivered to them the subjects of Queen Victoria who had been captured, while our own people were left to be the victims of arbitrary power. And so history has come on down. The reproach does not belong to this Administration alone that we have not protected and are not protecting the citizens of the United States and the property of the citizens of the United States. This same proposition of the President was made during the administration of President Grant—I say it with no kind of reproach—but the same proposition of delay, delay until some contingency existed in which the power of the Spanish Government was entirely exhausted. And here, now, after the lapse of twenty years, after a three years' war, after the maintenance of the organized government, we are still told that we must still remain quiet; that we must not acknowledge that which is a fact—the power of those people to exert government over two-thirds of that island, and protect the property of American citizens there, and the lives of American citizens there.

Mr. President, I can see no reason whatever for failing to make promptly this recognition of an existing fact, the independence of Cuba, and giving to it as a government the same rights that are accorded to Spain in the ports and jurisdiction of the United States.

If you do not choose you need not amend your neutrality laws. Cuba does not need anything but the privilege to enter into the ports of the United States and purchase arms and munitions of war. She needs no organized forces from here. She is able to maintain herself, and if she were not that is not our concern.

I maintain that wherever a people have organized a revolution beyond that of a riot, an insurrection, and have organized

tion under previous administrations. It is not that we want the territory, but we mean that the trouble shall meet a just settlement and conclusion. Let the end come, and come quickly. Let the bloodshed cease, and let freedom and humanity be glorified.

I cannot more appropriately close these remarks than by giving the beautiful apostrophe to our Republic and its mission, delivered at Gettysburg in 1869 by an American poet, Bayard Taylor:

"Her once war-wasted arm,
Put forth to shield a sister land from harm,
Ere the last blood on her own blade had dried,
Shall still be stretched to succor and to guide,
Beyond our borders, answering each need,
With counsel and with deed—
Along our Eastern and our Western wave,
Still strong to smite, still beautiful to save."

At the mover's request the resolution was referred to the Committee on Foreign Relations.

Senator Call then brought forward his resolution and spoke in favor of its adoption.

Mr. President, what reason can be given for not taking some action recognizing the fact that here are a people who have established a government for themselves? Who has a right to say that, because it is or is not a civil government, but a military government, it shall not be recognized?

In what part of the public law of nations is the proposition contained that a people may not establish a military government? What is Russia; what is Germany; what are all the autocratic governments of the world but governments resting upon military power—upon force? And why should we consider the question whether or not those people proceed by civil processes? But they do. They have an organized government; and the question for us is, How shall we exert the power that is in our hands to perform the legitimate duties of government in the protection of our own citizens and our commercial rights and interests in another country? Hundreds of American citizens have been languishing for months and months in the jails and castles of Cuba, and have been transported to Ceuta—American citizens entitled to the protection of this Government. Taking possession of Cuba will not relieve those American citizens, nor will the declaration of this Government that we recognize the independence of Cuba. That is a different subject. But how shall we prevent the destruction of American commercial rights?

a government which shows its power of maintaining itself by asserting its dominion and control of any considerable portion of the territory of a state for any considerable period of time, they have a right to recognition as a government whether they shall ultimately succeed or not.

With what power can a government treat for the protection of the property and life of its citizens or subjects unless it be with that power which can protect them, which has subverted the legitimate and regular authority? If this be not true, it follows that they must remain unprotected, with nothing but the right of indemnity or damages against perhaps an irresponsible and failing power. How will Spain with her diminished resources ever be able to indemnify the people of the United States for the \$50,000,000 of money invested in the estates and plantations of Cuba? How will Spain indemnify the people of the United States for the citizens of the United States transported to Ceuta and there for life sentenced to penal labor and confinement?

Mr. President, there seems to me to be no two sides to the question of the duty of the Government of the United States to recognize the independence of the Island of Cuba and its government, and to accord to them all the rights that belong to an independent nation in the ports and jurisdiction of the United States. It is not a question for us to consider whether or not that will lead to war. I do not believe it will. It is a recognized right of nations to do this. There is no right on the part of Spain and no legitimate cause of offence. Really it is to her interest that the Government of the United States should take this action, and that in some form the war should be terminated without further ruin and further destruction of property, and without further excitement of the people of the United States by the continued imprisonment of American citizens without sufficient cause.

On December 21 the Committee on Foreign Relations through Senator Cameron reported a joint resolution acknowledging the independence of Cuba.

On the same day David B. Hill (New York) introduced a joint resolution according belligerent rights to both parties in the Cuban war and pledging the United States to observe strict neutrality between them.

Horace Chilton (Texas) then moved an amendment of the same effect to the Cameron resolution recognizing the independence of Cuba.

On January 7, 1897, Roger Q. Mills (Texas) moved the following joint resolution:

Resolved, That the expediency of recognizing the independence of a foreign government belongs to Congress, and when Congress shall so determine the Executive should act in harmony with the legislative department of the Government.

SEC. 2. That the independence of the Republic of Cuba ought to be, and hereby is, recognized, and the sum of \$10,000 is hereby appropriated for salary and expenses of a minister to that government whenever such minister shall be appointed by the President.

The Mills resolution was reported on January 11. Senator Mills supported it.

Mr. President, on the 18th day of December last the Committee on Foreign Relations agreed to report to the Senate of the United States a joint resolution recognizing the independence of the Republic of Cuba. On the morning of the 19th of December a statement was given to the public press by authority of the Secretary of State [Richard Olney] challenging the authority of the Congress of the United States to deal with that question. He stated that in order to allay misapprehension and injurious results that might follow at home and abroad he thought it his duty to announce to the world that the President had the "exclusive" right to deal with the question of the recognition of a foreign state, and that if both Houses of Congress should pass a joint resolution recognizing the independence of a foreign state, and it should be vetoed by the President and then be passed by a two-thirds majority over the President's veto, the law would be inoperative and of no effect.

I propose to meet that contention. It is an extraordinary contention, and this is the second time in the history of the Republic that it has been presented. When it was first presented it met with a signal rebuke by the Congress of the United States, and I doubt not it will meet with the same rebuke now. Where the distinguished Secretary obtains his authority I know not. The Congress of the United States and the executive department are both the creations of the Constitution. Whatever authority the President and the Secretary of State have comes from the words of that great charter, either by an express provision or by a just and necessary implication from an express provision.

from Habana without going out and making a raid and running back again for shelter; and yet the President thinks that because the Cubans do not come out and give pitched battle to the Spaniards they are not worthy of recognition! The Cubans fight in their own way. The Cubans do not fight without arms and without munitions of war to enable the Spaniards to take them all and shoot them to death. They fight so as to break down the power of Spain; they fight in the only way they can fight; and they fight to the death. The same criticism, however, might have been made by the President if he had lived two thousand years ago. He might have said that Rome had no government because Fabius would not fight Hannibal in open battle when Hannibal was encamped around the walls of Rome for seventeen years. The historian says Fabius baffled Hannibal by refusing to fight until Rome got ready to give battle in her own way; and when she did it was in Africa, where she overturned the government of Carthage and destroyed Hannibal and his army.

Now, we are told that Cuba is not to be recognized because she does not go out without arms in her hands, when she has only ten or fifteen or twenty thousand to fight one hundred or two hundred thousand; and the President says—and I suppose he is a great military genius—if they will do that the whole thing can be settled right off, and we should have peace in our neighboring nation. Yes, they could; but how is Cuba to obtain arms? Cuba is surrounded by a chain of fire, surrounded by Spanish gunboats. She can obtain munitions of war only by occasionally passing by the gunboats and running in and slipping in the munitions, which are obtained by the friends of Cuba in the United States; but the President of the United States has so administered the neutrality laws of this Government as to make his administration a devoted friend of Spain. The Spaniards compliment and praise him. I do not envy the President while he enjoys their encomiums. I do not envy him the tributes he receives from Castelar and Weyler, men who curse and denounce the Senate and House of Representatives of the United States and the people of the United States, while they laud the President with praises for his course.

The neutrality laws of the United States bind the Administration only to prevent the sailing of armed expeditions, and over and over again has it been ruled that the sailing of a vessel with arms and munitions of war is no violation of the neutrality laws of the United States, nor is it a violation of the neutrality laws of other countries. We have the neutrality

The Constitution of the United States gives the President the power to appoint an ambassador to a foreign government, but the foreign government must exist before the President can appoint an ambassador or a minister. The Constitution gives the President power to appoint to an office, but the office must be created before the President can appoint, and the power to create an office in this Government is vested in the legislative department of the Government, and so far as the relations of the people of the United States are concerned the power to create a foreign government rests with the Congress of the United States, for the power to recognize its existence is the power to create our relations with it.

James Monroe, President of the United States, in 1822 did not recognize the independence of the South American states until he was fully authorized by the Congress to do it. On the 2d day of May, 1826, John Quincy Adams, his successor in the presidential chair, carrying into effect the same provision of the statute of May 4, 1822, recognized Peru as an independent nation.

In all these instances the President cooperated with Congress, believing that Congress could rightfully pass upon the expediency and policy of recognizing the independence of a foreign state, and when Congress had passed upon that as a fact then it was his duty to accept that fact as conclusive, and to carry it into execution by appointing and receiving the necessary ambassadors and by making treaties with those governments.

Here I leave this question and take up the question that follows. Congress having the power to recognize a foreign state, should it now recognize the existence of the Republic of Cuba? Why not? Cuba has a government; she has a president; she has a legislative assembly; she has courts; she has officers collecting the revenue; and I see by a statement just made by a gentleman who is soon to be a member of this body, already elected, who has been to Cuba, that the Cuban Republic even compels Spain to pay taxes to that government, and that even General Weyler has to pay his share of such taxation. Nothing purchased in the island outside of Habana enters that city which does not pay taxes to the republic before it enters the Spanish lines. Here is a government in full operation, levying taxes, administering the laws, raising and supporting armies, fighting battles, and still the President says it is not ready for recognition. He tells us that it occupies two-thirds of the territory of the island—if he had said nine-tenths he would have been more accurate. The armed power of Spain cannot get 25 miles

laws passed in the administration of President Monroe; and not only has it been held that arms and munitions could be shipped, but it has been held that an armed ship may be sent to insurgents lawfully by the laws of nations, only it has to run the peril of being captured by the enemy. Whenever the insurgents in Cuba come to the United States to buy arms and munitions with which to defend their liberties and to save themselves from destruction, they have to apply to the customs officer when their boat is loaded. The customs officer telegraphs to the Secretary of the Treasury, and the telegrams to the Secretary of the Treasury are made public. He telegraphs orders from the Treasury to the customs officer, "Let the ship go, on her stating that she is going from a certain port to a certain port." That information is given to Spain by the public press, and Spain's gunboats can go to that port or seize the vessel on the way.

Is that fair and just? Would it be fair and just with any people of the earth outside of this hemisphere? President Washington in his Farewell Address to the people of the United States cautioned them against favoritism to governments, cautioned them against partialities. Neutrality means impartiality; means that all shall be treated alike; and yet the whole course of the policy of the present Administration in this Cuban struggle has been to strengthen the power of Spain and hasten the hour of the destruction of the insurrection in Cuba. The President says in his message that the question of granting them belligerent rights is now no longer urged. Where did the distinguished Chief Magistrate of the nation get that remarkable information? He did not get it from Congress. Congress passed a law or a concurrent resolution, which is the expression of its opinion, and it is upon the statute book yet. If it were no longer urged somebody would offer a resolution to repeal it on the ground that we had made a mistake; but instead of retracing our steps of last year Congress is proposing to advance. Nor did the President get this remarkable information from the people of the United States. They believe in a government of the people founded on the consent of the governed. They are opposed to monarchy; they have no sympathy with Spain. Ninety-nine out of every hundred patriots in the United States deeply and profoundly sympathize with the insurrection in Cuba.

It may be possible that the boards of trade, the stock exchanges, and the commercial clubs of the great exporting cities on the Atlantic seaboard and in the North and West have had access to his ears and given him that information.

I have received communications from some of the distinguished commercial gentlemen in the United States, criticising me for the part I have taken. They say: "Business has just begun to revive, and now you are going on tearing it all to pieces again; you want to bring on war. What have we got to do with Cuba? We are exporting and importing to Cuba; we are making money. Let us alone." It is this mercantile spirit in this country that is fighting against its honor. The President says we ought to do the right thing; not to use might, but to use right; and he speaks in his message of what we owe to Spain.

Do we owe no duty to the poor, struggling people whom Spain is butchering every hour? We have said for one hundred years, and we say it to-day, and the President repeats it in this very message, that we will let no other power interfere in Cuba. We will not let them go and assume a protectorate over that island. We have shut them out from all houses of refuge; we have condemned them to slavery and to the despotism of the assassin who occupies the throne of Spain. We have done it; and we repeat it day by day, and yet shall we sit still in the Senate and in the House of Representatives and in the Executive chair of this nation and talk about our duty to Spain? We owe no duties to a despot, except the duties that we have covenanted in treaties that we have made with her, and which she has persistently refused to execute.

We owe a duty to the people of Cuba. We said in the very beginning of our history that Cuba should remain under the dominion of Spain. We said no other European government should acquire it. We said France should not have Louisiana, and we compelled her to sell it to us. We took the same ground with reference to Florida in 1811. We were then in a condition of quasi war with England and France. It was apprehended by our people that Great Britain was trying to get possession of Florida. On the 3d of January, 1811, Mr. Madison sent a message to Congress in which he said the country east of the Perdido River was so intimately connected with the security and tranquillity of the United States that he asked Congress to say by a declaration "that the United States could not see, without serious inquietude, that country pass from the hands of Spain into that of any other foreign power." Congress passed the act, and authorized him to take forcible possession of the territory, which he did, and occupied it with the army, notwithstanding Spain was the proprietor of the territory; and from that day on to the day when the gallant Colonel Monroe, as

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ment do? Some more words, words, words. They say, "He has been tried according to treaty. He has been tried by the civil courts. There is nothing to do now except to stand by and see an American shot to death for nothing." I say, Oh to God that we had one hour of Franklin Pierce, William L. Marcy, and Commander Ingraham! I say it is the duty of the Government of the United States to see that her citizen has a fair trial upon the merits of the accusation made against him, and to take some part in that controversy herself to see whether or not he is punished justly; and I care nothing about the verdicts of the courts of Spain or the courts of any other country on earth. If the citizen of the United States, in the judgment of his own Government, has violated no law, if he does not merit the punishment prescribed by a foreign government, I would make the atmosphere around Madrid smell of sulphur for a month. [Applause in the galleries.]

Premier Castelar has complimented the President. He talks about the crazy Senate and people of the United States. He talks about the greatness and glory of the President of the United States. I do not envy the President that man's compliment. His hands are besmeared with the blood of fifty-seven innocent American citizens who were executed while he was chief executive of Spain, murdered without trial. God grant that the day may come sometime when this great nation with all its power may once more be relieved from the shackles of the mercantile spirit of this country, when it may stand out in the face of the earth and assert and maintain the rights of its people everywhere, granting the rights of all other people honestly and religiously, observing them everywhere, and compelling every government on the earth to respect the rights of its citizens.

Mr. President, I feel that the people of the United States are in honor bound to interfere for the deliverance of those people; that they are in honor bound to protect our own people on that island and to see that when they are in possession of their rights not a hair on their heads shall fall to the ground. Whether the Congress of the United States or the President shall go forward to the discharge of their high duty, so long as I remain in this body as a representative of the people of Texas I will speak their views in favor of the discharge of every obligation of this Government and in favor of rescuing those poor people from the dungeon into which we have committed them. [Applause in the galleries.]

¹ See Volume VII, Chapter V; "The Kosztka Affair,"

President of the United States, threw the gauntlet of the young Republic at the feet of the Holy Alliance and dared them to lift it have we said that this hemisphere was not to be dominated by European influence.

Mr. President, we owe something to our own people in conjunction with the debt we owe to the poor, oppressed people of Cuba. If I had the place which the President has I would call upon the Congress of the United States to give me the power to take the armed fleets of this Government to Habana, and I would there protect the people of the United States or I would reduce those fortresses to a mass of mortar and ruin. [Applause in the galleries.]

An American newspaper correspondent, Govin, without a penknife, with a certificate in his pocket showing that he is a newspaper correspondent, with a certificate showing that he takes no part in the armed insurrection on the island, is taken out, strung up between two trees, and a squadron of cavalry rides by—at a dash—a gallant dash—and hews his flesh from his bones with machetes? Then what do we do? What does this great Republic do? She writes a note, and that note calls upon another officer to write another note, and, as poor Sanguilly said, it is words, words, words. Lying in prison in violation of the provisions of the treaty of 1877 for a year, and now condemned to perpetual imprisonment! Words! Why can not we demand of Spain that the perpetrators of this vile deed under Spain shall be punished? Why call upon Spain for words?

By military order when Sanguilly was captured he was condemned, I believe, to be shot or to be transported for life to the penal colony in Africa. The sentence was one or the other. Our Government called the attention of the Spanish Government to the fact that by treaty he must be tried by the civil courts. The civil courts in Cuba! They have had the laws of the machete since 1825. Cuba has no courts but the courts that are decreed from the mouth of the captain-general. "Well," Spain said, "if that will relieve you, all right." The judgment of the court at Madrid is set aside. The prisoner is ordered back to trial in Cuba by the civil courts, and a civil court is the creature of Weyler, and when the time comes for the trial he takes out the only witness who can prove that the man was a non-combatant, the only witness who can prove his innocence, and boldly shoots him to death, and imprisons the attorney who defends him—and then brings the prisoner up for trial and, without any evidence, repeats the same condemnation. Then, what does our Govern-

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On January 13 Augustus O. Bacon (Georgia) supported Senator Mills' resolution. His speech was of great value outside of its relation to Cuba, because of its clear analysis of the related constitutional powers of Congress and the President. As this analysis is however only incidental to the Cuban situation, it is here omitted.

Senator Bacon began by referring to a resolution which he had introduced in December, and which was now before the Judiciary Committee:

Resolved by the Senate (the House of Representatives concurring), That the question of the recognition by this Government of any people as a free and independent nation is one exclusively for the determination of Congress in its capacity as the lawmaking power;

Resolved further, That this prerogative of sovereign power does not appertain to the executive department of the Government, except in so far as the President is, under the Constitution, by the exercise of the veto, made a part of the lawmaking power of the Government.

Senator Bacon supported his resolution as follows:

Recognition makes the independence of the new nation a part of the law of this land. It becomes law binding upon the citizen, the official, and the Government; law recognized and administered by our courts; law under which in our own courts title to property is vested and divested; law which can be made the test of alleged crime; law which no judge of our courts could wantonly and capriciously ignore and refuse to administer without subjecting himself to impeachment and removal from office.

The declaration of a simple fact as a fact cannot accomplish such result. The mere declaration of a fact as such cannot coerce the action of a whole people and command the judgments and determine the decrees of courts as to property and personal liberty and life. Only law can do this, and only Congress can by the exercise of this power of recognition of the independence of a nation declare this law.

Those who claim that this power rests exclusively in the Executive must follow their argument to its final results, and they cannot escape the conclusion that if this contention is correct no monarch in the day of arbitrary and unlimited rule ever

wielded more absolute and unquestioned power than does the President of the United States in this regard. I will add that there is not on earth to-day a constitutional monarch who personally wields such power; not one.

The great struggle of centuries has been to free the people from the domination of one-man power. The culmination and triumph in that struggle was typified in the formation of this Government. So long as the executive head is confined in the exercise of power to these bounds set for him by the organic law there can be no one-man domination.

To guard and fortify against the growth of power centered in one man, which all experience had shown to be aggressive and dangerous, the legislative is, under the Constitution, made the highest branch of this Government. While it is in no manner answerable to either of the other branches of government, on the contrary, all officers of all other branches of the Government are answerable to Congress as to a tribunal of final power. The great governmental functions, the exercise of the great powers of the sovereignty of the Government, have been committed to it by the Constitution with the particular design and intent that they shall not be exercised by the Executive; that, at great cost of blood and treasure, wrested as they had been from the grasp of kings, these great powers should never be again within the control of any one man.

The fundamental purpose was to elevate the people rather than to exalt any man who of necessity should be set up to rule. The supreme design was that their commands should be executed by him, rather than that they should be subjected to his will, "to the end that this may be a government of laws and not of men."

On January 25-26 David Turpie (Indiana) spoke to the Cameron resolution recognizing the independence of Cuba.

Mr. President, I favor first a recognition of the independence of the Cuban Republic. I believe that would be the most patriotic, the most thoroughly American method of disposing of this question; and if economy is to be considered it is also the most facile and least expensive method of terminating this condition. I believe next in the declaration of belligerency, placing the combatants upon equal footing; that it is due from the United States, having regard to its history, its rank and station among the family of nations, to acknowledge the great right of revolu-

loss of life and treasure and increased injury to American interests, besides throwing enhanced burdens of neutrality upon this Government. In 1878 peace was brought about by the truce of Zanjón, obtained by negotiations between the Spanish commander, Martínez de Campos, and the insurgent leaders.

The present insurrection broke out in February, 1895. The revolt and the efforts to subdue it carried destruction to every quarter of the island, developing wide proportions and defying the efforts of Spain for its suppression. The civilized code of war has been disregarded, no less so by the Spaniards than by the Cubans.

The offer made by my predecessor in April, 1896, tendering the friendly offices of this Government failed. Any mediation on our part was not accepted. In brief, the answer read: "There is no effectual way to pacify Cuba unless it begins with the actual submission of the rebels to the mother country."

The cruel policy of concentration was initiated February 16, 1896. It has utterly failed as a war measure. It was not civilized warfare. It was extermination.

Against this abuse of the rights of war I have felt constrained on repeated occasions to enter the firm and earnest protest of this Government.

The instruction given to our new minister to Spain [Gen. Stewart L. Woodford] before his departure for his post directed him to impress upon that government the sincere wish of the United States to lend its aid toward the ending of the war in Cuba by reaching a peaceful and lasting result, just and honorable alike to Spain and to the Cuban people. It was stated that our Government was constrained seriously to inquire if the time was not ripe when Spain of her own volition, moved by her own interests and every sentiment of humanity, should put a stop to this destructive war and make proposals of settlement, honorable to herself and just to her Cuban colony. It was urged that as a neighboring nation, with large interests in Cuba, we could be required to wait only a reasonable time for the mother country to establish its authority and restore peace and order within the borders of the island; that we could not contemplate an indefinite period for the accomplishment of this result.

No solution was proposed to which the slightest idea of humiliation to Spain could attach, and indeed precise proposals were withheld to avoid embarrassment to that government. All that was asked or expected was that some safe way might be speedily provided and permanent peace restored. Between the departure of General Woodford, the new envoy, and his ar-

tion and self-government in any people upon any island of this hemisphere or in any part of the continent.

I believe in recognition because recognition is reinforcement. It is reinforcement to the side and cause of freedom in this hemisphere. If the Cuban patriots succeed we may then claim that we were friends of that republic, friends in need, friends in the hour and day of danger. If failure befall them, which may God avert, our action will lose nothing of grace or grandeur, and we shall have kept faith with that generous, quenchless spirit of liberty which has placed our own feet in so large room and in the way of such a high career that we cannot forbear, we cannot be silent; we must cry out, in the words of Lincoln, the great emancipator, "I wish that all men everywhere might be free!"

None of the Cuban resolutions came to a vote in the Senate during this session.

Four resolutions to recognize the independence of Cuba were presented in the House, and all were referred to the Committee on Foreign Relations, which made no report upon them.

On December 6, 1897, President McKinley thus referred to the Cuban situation in his first annual message.

"FORCIBLE ANNEXATION WOULD BE CRIMINAL AGGRESSION"

PRESIDENT MCKINLEY'S MESSAGE ON CUBA

The prospect from time to time that the weakness of Spain's hold upon the island and the political vicissitudes and embarrassments of the home government might lead to the transfer of Cuba to a Continental power called forth, between 1823 and 1860, various emphatic declarations of the policy of the United States to permit no disturbance of Cuba's connection with Spain unless in the direction of independence or acquisition by us through purchase; nor has there been any change of this declared policy since upon the part of the Government.

The revolution which began in 1868 lasted for ten years, despite the strenuous efforts of the successive peninsular governments to suppress it. Then, as now, the Government of the United States testified its grave concern and offered its aid to put an end to bloodshed in Cuba. The overtures made by General Grant were refused and the war dragged on, entailing great

rival in Spain the statesman who had shaped the policy of his country [Señor Cánovas] fell by the hand of an assassin, and although the cabinet of the late premier still held office and received from our envoy the proposals he bore, that cabinet gave place within a few days thereafter to a new administration, under the leadership of Sagasta.

The reply to our note was received on the 23d day of October, 1897. It is in the direction of a better understanding. It appreciates the friendly purposes of this Government. It admits that our country is deeply affected by the war in Cuba and that its desires for peace are just. It declares that the present Spanish Government is bound by every consideration to a change of policy that should satisfy the United States and pacify Cuba within a reasonable time. To this end Spain has decided to put into effect the political reforms heretofore advocated by the present premier without halting for any consideration in the path which in its judgment leads to peace. The military operations, it is said, will continue, but will be humane and conducted with all regard for private rights, being accompanied by political action leading to the autonomy of Cuba while guarding Spanish sovereignty. This, it is claimed, will result in investing Cuba with a distinct personality, the island to be governed by an executive and by a local council or chamber, reserving to Spain the control of the foreign relations, the army and navy, and the judicial administration. To accomplish this the present Government proposes to modify existing legislation by decree, leaving the Spanish Cortes, with the aid of Cuban senators and deputies, to solve the economic problem and properly distribute the existing debt.

In the absence of a declaration of the measures that this Government proposes to take in carrying out its proffer of good offices, it suggests that Spain be left free to conduct military operations and grant political reforms, while the United States for its part shall enforce its neutral obligations and cut off the assistance which it is asserted the insurgents receive from this country. The supposition of an indefinite prolongation of the war is denied. It is asserted that the western provinces are already well-nigh reclaimed, that the planting of cane and tobacco therein has been resumed, and that by force of arms and new and ample reforms very early and complete pacification is hoped for.

Discussion of the question of the international duties and responsibilities of the United States as Spain understands them is presented, with an apparent disposition to charge us with

failure in this regard. This charge is without any basis in fact. It could not have been made if Spain had been cognizant of the constant efforts this Government has made at the cost of millions and by the employment of the administrative machinery of the nation at command to perform its full duty according to the law of nations. That it has successfully prevented the departure of a single military expedition or armed vessel from our shores in violation of our laws would seem to be a sufficient answer.

Firm in the conviction of a wholly performed obligation, due response to this charge has been made in diplomatic course.

Throughout all these horrors and dangers to our own peace this Government has never in any way abrogated its sovereign prerogative of reserving to itself the determination of its policy and course according to its own high sense of right and in consonance with the dearest interests and convictions of our own people should the prolongation of the strife so demand.

Of the untried measures there remain only: Recognition of the insurgents as belligerents; recognition of the independence of Cuba; neutral intervention to end the war by imposing a rational compromise between the contestants, and intervention in favor of one or the other party. I speak not of forcible annexation, for that cannot be thought of. That by our code of morality would be criminal aggression.

Recognition of the belligerency of the Cuban insurgents has often been canvassed as a possible, if not inevitable, step both in regard to the previous ten years' struggle and during the present war. I am not unmindful that the two Houses of Congress in the spring of 1896 expressed the opinion by concurrent resolution that a condition of public war existed requiring or justifying the recognition of a state of belligerency in Cuba, and during the extra session the Senate voted a joint resolution of like import, which, however, was not brought to a vote in the House of Representatives. In the presence of these significant expressions of the sentiment of the legislative branch it behooves the Executive to consider soberly the conditions under which so important a measure must needs rest for justification. It is to be seriously considered whether the Cuban insurrection possesses beyond dispute the attributes of statehood which alone can demand the recognition of belligerency in its favor. Possession, in short, of the essential qualifications of sovereignty by the insurgents and the conduct of the war by them according to the received code of war are no less important factors toward the determination of the problem of belligerency than are the

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sible. Should that step hereafter be deemed wise as a measure of right and duty the Executive will take it.

Intervention upon humanitarian grounds has been frequently suggested, and has not failed to receive my most anxious and earnest consideration. But should such a step be now taken when it is apparent that a hopeful change has supervened in the policy of Spain toward Cuba? The policy of cruel rapine and extermination that so long shocked the universal sentiment of humanity has been reversed. Under the new military commander a broad clemency is proffered. Measures have already been set on foot to relieve the horrors of starvation.

Decrees in application of the foreshadowed reforms have already been promulgated. All civil and electoral rights of peninsular Spaniards are, in virtue of existing constitutional authority, forthwith extended to colonial Spaniards. A scheme of autonomy has been proclaimed by decree, to become effective upon ratification by the Cortes. It creates a Cuban parliament which, with the insular executive, can consider and vote upon all subjects affecting local order and interests, possessing unlimited powers save as to matters of state, war, and the navy, as to which the governor-general acts by his own authority as the delegate of the central government. This parliament has the right to propose to the central government, through the governor-general, modifications of the national charter and to invite new projects of law or executive measures in the interest of the colony.

It is honestly due to Spain and to our friendly relations with Spain that she should be given a reasonable chance to realize her expectations and to prove the asserted efficacy of the new order of things to which she stands irrevocably committed. She has recalled the commander whose brutal orders inflamed the American mind and shocked the civilized world, and has modified the horrible order of concentration.

The near future will demonstrate whether the indispensable condition of a righteous peace, just alike to the Cubans and to Spain, as well as equitable to all our interests, so intimately involved in the welfare of Cuba, is likely to be attained. If not, the exigency of further and other action by the United States will remain to be taken. When that time comes that action will be determined in the line of indisputable right and duty. It will be faced, without misgiving or hesitancy, in the light of the obligation this Government owes to itself, to the people who have confided to it the protection of their interests and honor, and to humanity.

influences and consequences of the struggle upon the internal polity of the recognizing state.

Turning to the practical aspects of a recognition of belligerency and reviewing its inconveniences and positive dangers, still further pertinent considerations appear. In the code of nations there is no such thing as a naked recognition of belligerency unaccompanied by the assumption of international neutrality. Such recognition without more will not confer upon either party to a domestic conflict a status not theretofore actually possessed or affect the relation of either party to other states. The act of recognition usually takes the form of a solemn proclamation of neutrality which recites the *de facto* condition of belligerency as its motive. It announces a domestic law of neutrality in the declaring state. It assumes the international obligations of a neutral in the presence of a public state of war. It warns all citizens and others within the jurisdiction of the proclamaunt that they violate those rigorous obligations at their own peril and cannot expect to be shielded from the consequences. The right of visit and search on the seas and seizure of vessels and cargoes and contraband of war and good prize under admiralty law must, under international law, be admitted as a legitimate consequence of a proclamation of belligerency. While according the equal belligerent rights defined by public law to each party in our ports, disfavor would be imposed on both which, while nominally equal, would weigh heavily in behalf of Spain herself. Possessing a navy and controlling the ports of Cuba her maritime rights could be asserted not only for the military investment of the island, but up to the margin of our own territorial waters, and a condition of things would exist for which the Cubans within their own domain could not hope to create a parallel; while its creation through aid or sympathy from within our domain would be even more impossible than now, with the additional obligations of international neutrality we would perforce assume.

The enforcement of this enlarged and onerous code of neutrality would only be influential within our own jurisdiction by land and sea and applicable by our own instrumentalities. It could impart to the United States no jurisdiction between Spain and the insurgents. It would give the United States no right of intervention to enforce the conduct of the strife within the paramount authority of Spain according to the international code of war.

For these reasons I regard the recognition of the belligerency of the Cuban insurgents as now unwise and therefore inadmis-

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Sure of the right, keeping free from all offence ourselves, actuated only by upright and patriotic considerations, moved neither by passion nor selfishness, the Government will continue its watchful care over the rights and property of American citizens and will abate none of its efforts to bring about by peaceful agencies a peace which shall be honorable and enduring. If it shall hereafter appear to be a duty imposed by our obligations to ourselves, to civilization, and humanity to intervene with force, it shall be without fault on our part and only because the necessity for such action will be so clear as to command the support and approval of the civilized world.

On February 15, 1898, the American warship *Maine*, while in the harbor of Havana, was sunk by an explosion.¹

On April 11 the President sent a special message to Congress on Cuba.

INTERVENTION IN CUBA

PRESIDENT MCKINLEY

The war in Cuba is of such a nature that short of subjugation or extermination a final military victory for either side seems impracticable.

Realizing this, it appeared to be my duty, in a spirit of true friendliness, no less to Spain than to the Cubans, who have so much to lose by the prolongation of the struggle, to seek to bring about an immediate termination of the war. To this end I submitted, on the 27th ultimo, as a result of much representation and correspondence, through the United States minister at Madrid, propositions to the Spanish Government looking to an armistice until October 1 for the negotiation of peace with the good offices of the President.

In addition, I asked the immediate revocation of the order of reconcentration, so as to permit the people to return to their farms and the needy to be relieved with provisions and supplies from the United States, cooperating with the Spanish authorities, so as to afford full relief.

The reply of the Spanish cabinet was received on the night of the 31st ultimo. It offered, as the means to bring about peace in Cuba, to confide the preparations thereof to the insular parliament, inasmuch as the concurrence of that body would be necessary to reach a final result, it being, however, understood

¹ The details of this disaster are given on page 134 *ss*.

that the powers reserved by the constitution to the central government are not lessened or diminished. As the Cuban parliament does not meet until the 4th of May next, the Spanish Government would not object, for its part, to accept at once a suspension of hostilities if asked for by the insurgents from the general-in-chief, to whom it would pertain, in such case, to determine the duration and conditions of the armistice.

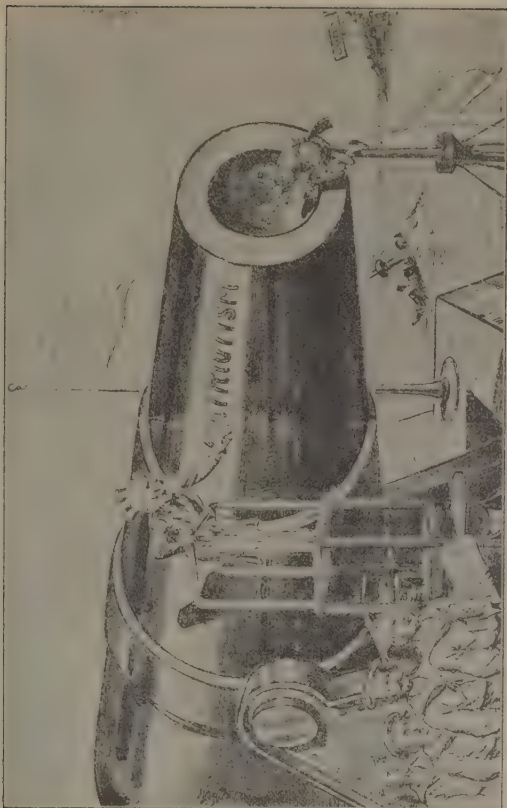
Nor from the standpoint of expediency do I think it would be wise or prudent for this Government to recognize at the present time the independence of the so-called Cuban Republic. Such recognition is not necessary in order to enable the United States to intervene and pacify the island. To commit this country now to the recognition of any particular government in Cuba might subject us to embarrassing conditions of international obligation toward the organization so recognized. In case of intervention our conduct would be subject to the approval or disapproval of such government. We would be required to submit to its direction and to assume to it the mere relation of a friendly ally.

When it shall appear hereafter that there is within the island a government capable of performing the duties and discharging the functions of a separate nation, and having, as a matter of fact, the proper forms and attributes of nationality, such government can be promptly and readily recognized and the relations and interests of the United States with such nation adjusted.

There remain the alternative forms of intervention to end the war, either as an impartial neutral by imposing a rational compromise between the contestants, or as the active ally of the one party or the other.

As to the first, it is not to be forgotten that during the last few months the relation of the United States has virtually been one of friendly intervention in many ways, each not of itself conclusive, but all tending to the exertion of a potential influence toward an ultimate pacific result, just and honorable to all interests concerned. The spirit of all our acts hitherto has been an earnest, unselfish desire for peace and prosperity in Cuba, untarnished by differences between us and Spain, and unstained by the blood of American citizens.

The forcible intervention of the United States as a neutral to stop the war, according to the large dictates of humanity and following many historical precedents where neighboring states have interfered to check the hopeless sacrifices of life by internecine conflicts beyond their borders, is justifiable on rational



BE CAREFUL! IT'S LOADED
By Victor Gillam in "Judge"

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grounds. It involves, however, hostile constraint upon both the parties to the contest as well to enforce a truce as to guide the eventual settlement.

The grounds for such intervention may be briefly summarized as follows:

First. In the cause of humanity and to put an end to the barbarities, bloodshed, starvation, and horrible miseries now existing there, and which the parties to the conflict are either unable or unwilling to stop or mitigate. It is no answer to say this is all in another country, belonging to another nation, and is therefore none of our business. It is specially our duty, for it is right at our door.

Second. We owe it to our citizens in Cuba to afford them that protection and indemnity for life and property which no government there can or will afford, and to that end to terminate the conditions that deprive them of legal protection.

Third. The right to intervene may be justified by the very serious injury to the commerce, trade, and business of our people and by the wanton destruction of property and devastation of the island.

Fourth, and which is of the utmost importance. The present condition of affairs in Cuba is a constant menace to our peace, and entails upon this Government an enormous expense. With such a conflict waged for years in an island so near us and with which our people have such trade and business relations—when the lives and liberty of our citizens are in constant danger and their property destroyed and themselves ruined—where our trading vessels are liable to seizure and are seized at our very door by warships of a foreign nation, the expeditions of filibustering that we are powerless to prevent altogether, and the irritating questions and entanglements thus arising—all these and others that I need not mention, with the resulting strained relations, are a constant menace to our peace, and compel us to keep on a semiwar footing with a nation with which we are at peace.

These elements of danger and disorder already pointed out have been strikingly illustrated by a tragic event which has deeply and justly moved the American people. I have already transmitted to Congress the report of the naval court of inquiry on the destruction of the battleship *Maine* in the harbor of Havana during the night of the 15th of February. The destruction of that noble vessel has filled the national heart with inexpressible horror. Two hundred and fifty-eight brave sailors and marines and two officers of our navy, reposing in the fancied

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security of a friendly harbor, have been hurled to death, grief and want brought to their homes, and sorrow to the nation.

The naval court of inquiry, which, it is needless to say, commands the unqualified confidence of the Government, was unanimous in its conclusion that the destruction of the *Maine* was caused by an exterior explosion, that of a submarine mine. It did not assume to place the responsibility. That remains to be fixed.

In any event the destruction of the *Maine*, by whatever exterior cause, is a patent and impressive proof of a state of things in Cuba that is intolerable. That condition is thus shown to be such that the Spanish Government cannot assure safety and security to a vessel of the American navy in the harbor of Havana on a mission of peace, and rightfully there.

Further referring in this connection to recent diplomatic correspondence, a dispatch from our minister to Spain, of the 26th ultimo, contained the statement that the Spanish minister for foreign affairs assured him positively that Spain will do all that the highest honor and justice require in the matter of the *Maine*. The reply above referred to of the 31st ultimo also contained an expression of the readiness of Spain to submit to an arbitration all the differences which can arise in this matter.

The long trial has proved that the object for which Spain has waged the war cannot be attained. The fire of insurrection may flame or may smolder with varying seasons, but it has not been, and it is plain that it cannot be, extinguished by present methods.

The only hope of relief and repose from a condition which can no longer be endured is the enforced pacification of Cuba. In the name of humanity, in the name of civilization, in behalf of endangered American interests which give us the right and the duty to speak and to act, the war in Cuba must stop.

In view of these facts and of these considerations, I ask the Congress to authorize and empower the President to take measures to secure a full and final termination of hostilities between the Government of Spain and the people of Cuba, and to secure in the island the establishment of a stable government, capable of maintaining order and observing its international obligations, insuring peace and tranquillity and the security of its citizens as well as our own, and to use the military and naval forces of the United States as may be necessary for these purposes.

And in the interest of humanity and to aid in preserving the lives of the starving people of the island I recommend that the distribution of food and supplies be continued, and that an ap

proprietion be made out of the public treasury to supplement the charity of our citizens.

The issue is now with the Congress. It is a solemn responsibility. I have exhausted every effort to relieve the intolerable



SPEAKER REED TO MCKINLEY.—“YOU’VE GOT TO BANK THE FIRE SOME WAY OR OTHER; I CAN’T HOLD IN THIS STEAM MUCH LONGER.”
By R. Bowman, in Minneapolis “Tribune”

condition of affairs which is at our doors. Prepared to execute every obligation imposed upon me by the Constitution and the law, I await your action.

Yesterday, and since the preparation of the foregoing message, official information was received by me that the latest decree of the Queen Regent of Spain directs General Blanco, in order to prepare and facilitate peace, to proclaim a suspension of hostilities, the duration and details of which have not yet been communicated to me.

This fact with every other pertinent consideration will, I am sure, have your just and careful attention in the solemn deliberations upon which you are about to enter.

If this measure attains a successful result, then our aspirations as a Christian, peace-loving people will be realized. If it fails, it will be only another justification for our contemplated action.

service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

The minority of the committee presented the following views:

The undersigned members of said committee cordially concur in the report made upon the Cuban resolutions, but we favor the immediate recognition of the Republic of Cuba, as organized in that island, as a free, independent, and sovereign power among the nations of the world.

DAVID TURPIE.
R. Q. MILLS.
JNO. W. DANIEL.
J. B. FORAKER.

The amendment reported by the minority of the committee was to amend the first paragraph by inserting, in line 4, after the word “independent,” the following:

And that the Government of the United States hereby recognizes the Republic of Cuba as the true and lawful government of that island.

Senator Foraker supported the minority resolution. He first spoke of the points on which the entire committee were agreed.

I desire first to speak of the difference between the Executive and the committee, as shown by these recommendations, as to the form and character of intervention. The committee differed with the President in the first place because, in the judgment of the committee, the time had come when no further negotiations were in order. In the language of the President employed in this message, the time for action, in the judgment of the committee, had come, and the committee felt that while they had the matter under consideration they would provide for action, immediate and specific, and, as they believed, in character and keeping with the desires of the American people in respect to this matter.

In the second place, Mr. President, the committee, or at least some members of the committee, had grave doubts as to the

CUBAN INDEPENDENCE

SENATE, APRIL 13-16, 1898

On April 13, 1898, Cushman K. Davis (Minnesota), chairman of the Committee on Foreign Relations, presented to the Senate a joint resolution for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect.

To this committee had been referred a number of resolutions and two presidential messages on the subject, the latter being of March 28 and April 11, 1898. The committee submitted with its resolution a long argumentative report, the substance of which will be found in the speeches advocating its adoption.

The committee recommended the adoption of the following resolution:

Whereas the abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States, have been a disgrace to Christian civilization, culminating, as they have, in the destruction of a United States battleship, with 266 of its officers and crew, while on a friendly visit in the harbor of Havana, and cannot longer be endured, as has been set forth by the President of the United States in his message to Congress of April 11, 1898, upon which the action of Congress was invited: Therefore,

Resolved, First. That the people of the island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual

right of Congress to confer upon the Chief Executive of the nation the conditional exercise of the war-making power. Congress alone is invested with the war-making power. The proposition of the President was that he should take effective steps, such, of course, as he might deem effective, and that if he should fail to secure a cessation of hostilities in Cuba, then and in that event he was authorized to employ the army and the navy of the United States. In other words, make war in the condition or contingency that his negotiations should fail. I for one at least think the committee generally doubted the legality of that proposition.

Then, Mr. President, as to the establishment of a stable government by the President of the United States in the island of Cuba, the committee were of the opinion that there might possibly be grave doubts as to the right of Congress to empower the President of the United States or for the Congress itself to create and establish a stable government in the island of Cuba for the benefit of the Cuban people.

However that may be, after the committee had declared that the people of the island of Cuba are and of right ought to be free and independent, the proposition that the President of the United States or the Congress of the United States or any other exterior power should establish for that independent people a government stable or otherwise was inconsistent.

If a people be free and independent, as we have in this first proposition declared that the people of the island of Cuba are, they, and they alone, have power to establish their government. Independence and sovereignty go hand in hand, and any people who have independence have the capacity and the right to exercise sovereignty, and it is a denial of independence to say in the next breath after you have declared it that we will undertake, or we do hereby reserve the right and power, to establish for that independent people a government such as in our judgment and opinion may be stable.

Whether or not a people who have revolted and rebelled against a sovereign power and are striving for independence are entitled to be recognized as an independent state is always a question of fact as well as a question of law. Before you can tell what law is applicable to any particular case you must ascertain what the facts are. What are the facts with respect to Cuba? Fortunately in answering that question I need not long or tediously detain the Senate. Not only from the newspapers and other sources of information, but from presidential messages, from the last one received, and especially and particularly

from the very able report of the chairman of the Committee on Foreign Relations, we have been fully advised.

Mr. President, it is now plain to all the world, plain to Spain herself, for she has been for months, and is now by every steamer, recalling her troops from there, that she is no longer attended in her efforts to subdue that island by any reasonable expectation or hope of ultimate success. That being the case, such being the facts, what is the law of the case? I read from Hall on International Law. It is a standard and a modern authority. It has been written in the light not only of ancient, but of modern precedents.

Hall tells us that whenever the struggle on the part of the former sovereign becomes "so inadequate as to offer no reasonable ground for supposing that success may ultimately be obtained, it is not enough to keep alive the rights of the state, and so to prevent foreign countries from falling under an obligation to recognize as a state the community claiming to have become one."

I need not read other authorities, but I challenge any Senator who may enter into this discussion to find an authority inconsistent with the declaration which I have read, who is accepted as a standard authority among those who are competent to judge of international-law writers.

That is the rule; whenever the struggle on the part of the sovereign to recover lost authority, lost sovereignty, has ceased to be attended with a reasonable hope or expectation of success, then other countries have a right to recognize the independence of the opposing people. If I have been talking to any purpose I have made it plain by the statement of facts I have given that no longer are the struggles of Spain in the island of Cuba attended with any reasonable hope or expectation of success. That being true, Mr. President, according to the principles of international law we have a right, as the committee have reported, and it is our duty to recognize the independence of the people of Cuba.

But suppose something is lacking in the Cuban case to justify us in claiming that they are absolutely free and independent, will not that which may be lacking, whatever it may be, be supplied when the United States of America intervenes, as we propose to do by this same resolution? Intervention goes here, according to this resolution, as it does naturally, hand in hand with independence. When this demand, which we all agree is to be made, that Spain shall withdraw is made upon her, that minute she must either abdicate, which would leave the island free

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ment has a right to go to the ballot box and be heard in determining what the government shall be as to the personnel of its officials. The house of representatives, elected by the people in this manner, selects the president and vice-president and the cabinet; and what character of government have they selected? Let me call your attention for a moment to the character of these officials.

I have heard that government referred to here as though it were made up of a lot of inconsequential nobodies. I say, without attempting to disparage anybody, the president and vice-president of the Cuban Republic, for intellectual strength and power and vigor, for high character, for unquestioned ability, for statesmanship, will compare favorably with the President and Vice-President of the United States of America. Than Bartolome Masó there is no more accomplished gentleman, probably, on the Western Hemisphere; a man of large means, a man of large experience in public affairs, a man who—and I mention this to show his character—when the war broke out called in all his creditors and paid every one of them in cash the full sum owing, then turned over the keys to his tenants and departed for the field. He is now president of that republic, after having served two years as vice-president under Cisneros, recently elected as such by the general assembly chosen by popular vote.

With this distinguished president is associated in office as vice-president Dr. Domingo Méndez Capote, who was professor of law in the Havana University for years before called to this position.

Mr. President, what has this Cuban Government done? It has been stated here that it is a paper government. That is true: it is a most excellent paper government, but it is a most excellent actual government as well. There is in the island of Cuba, instituted by this paper government, a postal system which is carrying the mails to-day throughout the island into every fortified city, as well as throughout the territorial parts of the island. You can go to New York and deposit with the junta a letter addressed to anybody, in any place in Cuba, with a Cuban postage stamp attached, and it will find its destination just as surely as a letter deposited in a United States post-office will reach its destination within our territory. They not only have a postal system, but they have a fiscal system—a fiscal system which has provided tax collectors for the government throughout all that island. Each and every man is required to pay precisely alike, and when the subtreasurer of that government, appointed at New York, was before the committee a few

and independent to the satisfaction, I imagine, of the most hostile mind to the recognition of independence, or else, if she does not abdicate, she must then give battle—declare war; and what American can doubt, or does doubt, the ultimate result of war, if we are so unfortunate as to have war?

Will it not result in the absolute freedom and independence of the people of the Island of Cuba? Unquestionably so; for we expect to prosecute a war to triumphant success, if we are driven into one.

So, therefore, I say, upon authority, in strict consonance with the rules and principles of international law, it is the duty of the Government of the United States, as well as the right and privilege of this Government, now, at this very moment, when we pass a resolution to intervene, to recognize the independence of the people of that island.

Mr. President, I now wish to speak of the resolution which the minority of the committee favor. The minority of the committee are not satisfied simply to recognize the independence of the people of that island. We want to recognize also, and we appeal to Senators in this Chamber to stand by us in that proposition, the government set up by the insurgents, referred to by the President in his message as the "so-called" Cuban Republic.

We think this government ought to be recognized in the first place, because if the people of Cuba are free and independent, as we have agreed unanimously in the committee they are, who made them free and independent? Did they become free and independent acting as a mob? exerting themselves in a state of anarchy? without any political organization? No! Such wonderful achievements as stand to their credit we all knew could not have been accomplished without concert of action, without political organization, and they had it in the Republic of Cuba. That was their civil government, to which the military force commanded by Gomez is subordinate.

Mr. President, there are a great many other reasons why we should recognize that government.

We ought to be willing to recognize it because of its form and character. It is a republican form of government. It is a government based on a written constitution, in which the several departments of the government are established and the powers of the various departments and officials are prescribed. It has a legislative, an executive, and a judicial department. The legislative branch of the government is elected by popular vote. In Cuba, under this constitution, they have universal suffrage. Every man or woman who owes allegiance to the Cuban Govern-

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days ago he showed us in his books where more than \$470,000 collected by these tax collectors throughout that island had been transmitted to him as revenues of that government, every dollar of which had been collected by the officials of the Republic of Cuba, and for every dollar of which an official receipt had been given.

They have, in addition to their postal and fiscal system, a school system more creditable than any established by Spain in any place in the world. They have a compulsory system of education. Every child between certain ages is required to attend school. They have a public printing press at their capital (of which I shall speak in a moment), where, by the government, school books are printed, and by the government distributed to the scholars throughout the island. All are educated according to a system of the government, a system established and conducted by the government and the representatives of the government.

Ah, but, some one says, it has no fixed capital.

The Cubans do have a fixed capital. It is located at Cubitas. It has to be at times somewhat peripatetic, going from this to that place, but never removing any very great distance. They have public offices, the presidential office, the office for each of the secretaries. In those offices the business of the republic is conducted. There, in those offices, the archives of the nation are preserved, and I can say here, in passing, that in the office of our own Secretary of State are the official communications of the officials of the Republic of Cuba, and they are as creditable as any that have come from any country on the globe—communications of marked ability.

But, Mr. President, there are other reasons why that government, which I have undertaken to show does in fact exist, should be recognized. We should recognize it, if for nothing else, as a war measure. I do not doubt that intervention by the United States will mean war with Spain. We are bound to assume that it will. That being the case, we should, hand in hand with intervention, adopt this other resolution, recognizing not only the people, but the government also as independent, to the end that we may strengthen those who are our natural allies and who can do more for us than anybody else.

Gomez has now in the field, as I said a while ago, some 35,000 or 40,000 men. He would have many thousands more if he had guns and ammunition for them. The very moment the United States intervenes and recognizes the independence of that republic Gomez can swell that army from 35,000 or 40,000 to 50,

000, 60,000, 80,000, 100,000 men, and all we will have to do is to put guns and ammunition in their hands and they will speedily evict the Spanish battalions from the island of Cuba. If we will only with our navy blockade the harbors, so that they can take no more provisions in, the Cubans will speedily put an end to the war, and there will be no necessity for this Government to expose our troops to the ravages of yellow fever and the other difficulties and disadvantages that would attend a campaign in that island in the rainy season.

But, Mr. President, there is another reason still why this proposition should be incorporated into these resolutions. It is the reason why, in the original draft of the resolutions, I incorporated it. I put in there, and propose to put it back in there if I can, a declaration that the Republic of Cuba should be at once recognized by the Government of the United States because of the legal effect that would result if we did not do that. I hold that it is well settled as a principle of international law that if one country absorb another it takes not only the legal rights and advantages of that country, but it takes also the obligations of that country. We have all been told by the newspapers and otherwise—I have never seen any contradiction of it, and therefore I have assumed that it is true—that the revenues of Cuba have been, by solemn enactment of the Spanish Government, pledged to the payment of the principal and interest of \$400,000,000 of Spanish-Cuban 4 per cent. bonds.

Mr. President, what will be the consequence to this Government if we go down into that island treating them as in a state of anarchy, turning our back on Gomez and his government, denying that there is any government, banishing Spain from the island, taking possession of the territory, and appropriating the revenues either to ourselves or to "a stable" government that the United States of America through the President is to establish in that island? What would be the consequence? We would take the rights and privileges and advantages attaching to the territory, and we would take the debts fastened on it also, just as if you buy a piece of property that is mortgaged, you take it subject to the mortgage and must pay the mortgage or lose your property. That is the legal proposition that I assert. I am not going to stop here to read authorities, but I will do so if it should be challenged.

STEPHEN B. ELKINS [W. Va.].—If Gomez takes the island what will become of the mortgage?

SENATOR FORAKER.—It does not make any difference to us what happens if Gomez takes it; but I will tell you what will

situation where they can set up their government, and all we do in going there is to recognize the existence of that government and act with our natural allies.

Ah, but says somebody, when you go there, if you recognize the existence of that government, you are compelled to report to Gomez, and there will be a question at once between General Miles and General Gomez as to who should command. If there be any government in the island of Cuba to-day it is either the Spanish Government or it is the Republic of Cuba, and when General Miles goes to Cuba I would rather have him report to General Gomez than to General Blanco.

Mr. President, I have not at any time had any trouble in my mind about independence and intervention, but I have had this kind of a trouble in my mind: The trouble has been whether it should be independence and intervention or independence and a declaration of war outright. I think, logically speaking, it ought to be a declaration of war, and I would be standing here arguing for such a declaration if I were not of the opinion that armed intervention will give us an opportunity to suitably punish Spain for the destruction of the *Maine* and 266 of our officers and sailors. [Applause in the galleries.]

We have been told, Mr. President, that the board of inquiry appointed by our Government by its report has estopped us from such a declaration. I dispute it. It is true that the board of inquiry found that they could not tell what person or persons were responsible for that disaster, but the context shows that in that connection they had reference only to the question what person or persons pressed the button that sent the electric current on its fateful mission; and that, Mr. President, is immaterial in the light of the other facts unequivocally found by that board of inquiry.

No, it is an absolute absurdity, it seems to me, for us to imagine that the submarine mine that destroyed the battleship *Maine* was anything else than a governmental implement and agency of war. Suppose, for illustration, instead of that ship being destroyed by a submarine mine, as she was, she had been sunk by a shot fired from Morro Castle, under the guns of which she was buoyed. Would any Senator in such instance imagine that there could be any question about that piece of artillery being a governmental agency and implement of war? Would anybody stand up and question that it was a governmental agency under the control of government officials, and that the Spanish Government could be held liable by us for the result of the discharge of that gun as a hostile act of war?

happen. If Gomez takes the island by revolution the whole obligation is wiped out, for those who successfully revolutionize start anew, as revolutionists have started anew from the beginning of the world, except only as to obligations which they themselves might create.

SENATOR ELKINS.—If we should take the island by war, would not those obligations be wiped out as well?

SENATOR FORAKER.—I cannot discuss every kind of a question that a Senator by an interrogatory may seek to put before me, especially not when in the very next breath he will refuse, or, at least, evade, to say whether he wants this Government to acquire that island by conquest or not.

I say here, as a principle of international law, if the United States Government goes down there and drives Spain out and puts somebody else in, forming "a stable government" of her making, that "stable government" will become responsible, and the United States of America will become responsible. The United States of America steps in behind four hundred million of Spanish-Cuban 4 per cent. bonds. You do not admit the proposition. It is possible that it is open to some debate. I will concede for the sake of the argument it is. But who holds these \$400,000,000 of bonds? I understand they are held largely in Germany, largely in France, and largely in the United States.

Does anybody imagine, Mr. President, if we should go into Cuba and there establish a stable government for which we would be responsible, that the present Emperor of Germany would hesitate one moment to say to the people of the United States, "You have taken by conquest the revenues that Spain had a right to pledge and did pledge to pay the principal and interest of bonds due to my subjects, and I will now look to you?" Does anybody doubt that he would do it?

Treating it as a practical question, do you suppose that the rulers of Germany, France, and other countries whose subjects are interested as holders of these bonds would hesitate to call us to account? I do not hesitate to say they would, and then we would have other and far more serious complications. I want to avoid them.

If we recognize the independence of the Republic of Cuba that liability is avoided. We absolutely estop everybody from making such a demand upon us; we take no responsibility. Those people, according to our resolutions, have already accomplished their independence without any help from this country, but rather in spite of all this country has done to patrol our coasts in the interests of Spain. They are already in a

Mr. President, the gun was not any more a governmental agency than this mine was. The gun was not any more under the control of the government than this mine was. The gun was not any more subject to governmental control and to be discharged by governmental agencies than was this mine.

But, if it had been the case of a discharge from a gun, what would Spain have done? Why, the whole world would have recognized that we were bound to assume that it was an act of war. Spain would have recognized it. How could she have escaped from the consequences? Only in one way, and then she would have remained liable for all damages that occurred. She could have escaped from the conclusion that it was an act of war by immediately disavowing and immediately establishing by incontrovertible proof that it was an accident, if such a thing were possible.

Mr. President, the same rule that would apply in the case of the gun does apply, and did apply, in this instance. And, Mr. President, the significant thing is that Spain admitted by her conduct that it applied. What did Spain do? Instantly she disavowed, just as she would have done in the case of the gun, and instantly sought to establish her innocence by proving that it was an accident.

No wonder, Mr. President, that she seized upon the theory that it was an accident when our own Government was everywhere proclaiming that it was an accident. She sought to establish that it was an accident; she pitched her defence on that proposition; she took her testimony; she made an official report. It is before the Senate. She finds in that report that the *Maine* was destroyed, not by an external agency, but by an accident, by the explosion of one of her magazines.

Mr. President, that report is a lie to the living and a libel upon the dead. It is on its face absolutely and conclusively false. There is one circumstance that will forever keep it branded as such—the present condition of the keel plates absolutely wrecks and destroys her whole defence as completely as the *Maine* was destroyed by her submarine mine. What is the result? The result of it is that Spain stands to-day convicted by her own effort at defence, convicted in the presence of the nations of the earth, of that hideous and cowardly crime.

What is our duty in view of it? Mr. President, we owe it to the brave men dead to vindicate their reputations from the brutal charge that they died of their own negligence. We owe it, Mr. President, to the splendid record of the American navy to preserve it from the tarnish that is sought to

be put upon it. We owe it, Mr. President, to our own good name among the nations of the earth that the perpetrators of such a cruel outrage shall not go unwhipped of justice.

It is not morality, it is not Christianity, it is not religion, it is not common decency, it is not common sense, but only a maudlin sentimentality to talk in the presence of such circumstances and facts about the horrors of war. War is horrible, always to be deplored, and ever to be avoided if it can be avoided consistently with the dignity and the honor and the good name of the nation. But, Mr. President, much as war is to be deplored, it is a thousand times better to have it in a case like this than to be written down before all the nations of the earth as pusillanimous—as wanting in pluck and courage.

Yes, Mr. President, business interests may be interfered with, loss of life may occur, all apprehended evils may result, but, no matter what the cost, in the presence of this great commanding duty we must go forward. The time, I repeat, for diplomacy has passed. The time for action has come. Let the doubting, the hesitating, the opposing go to the rear, while the virile, strong-minded, patriotic, liberty-loving masses of the American people, coming from all the sections and all pursuits and avocations of life, rally as one man around our gallant army and navy, and, taking the flag of our country, carry it on to triumphant victory. [Applause in the galleries.]

A victory, Mr. President, for civilization over barbarism; a victory for the right and capacity of man to govern himself; a victory for the Western Hemisphere; a victory for Cuba; a victory for freedom and liberty and independence; a victory worthy of the descendants of the heroic men who achieved our own independence, and worthy of the successors of those heroic men who have since preserved and perpetuated our priceless heritage. [Applause in the galleries.]

EUGENE HALE [Me.].—I offer as a substitute for the pending resolution what I send to the desk, which I ask may be printed and go over with the joint resolution. It is proposed to strike out all after the resolving clause and insert:

The President is authorized, directed, and empowered to intervene at once to restore peace on the island of Cuba, and secure to the people thereof a firm, stable, and independent government of their own, and is authorized to use the army and naval forces of the United States to secure this end.

HENRY CABOT LODGE [Mass.].—Mr. President, I think there is one point on which all men in this country are agreed to-day,

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We heard but yesterday in the Foreign Relations Committee the advice of General Fitzhugh Lee, who has conferred such honor upon the United States by the manner in which he has represented this country at Havana, and his advice is that we should not recognize the insurgent government.

Therefore, Mr. President, without arguing that point further, I beg to say that I stand with the majority of the committee and with the President of the United States in opposing the recognition of the insurgent government at this time. It can be done, if necessary, at any moment. The President has nothing to do but to ask Mr. Palma to the White House, and the Cuban republic stands up erect and recognized. We may safely trust that power to the President.

I said, sir, that the President has asked us for intervention. The committee have given it to him. It was not the form of resolution which I personally preferred. I voted for another in the committee. But, Mr. President, what I desired more than any special form of resolution was the unity of action of the Government of the United States in the crisis to which we have arrived. Therefore I voted to bring these resolutions into the Senate; voted to do it with all the other members of the committee. Nor do I think, Mr. President, that there is much use in differing about the words in which we order intervention. We have been wandering too long as a country amid the delusions and snares of diplomacy. Let us now come into the clear light of day and look facts squarely in the face.

When we authorize the President to intervene and use the army and navy of the United States, whether we do it in the language of the message, or in the language of the House of Representatives or in the language of the Senate resolution, we create a state of war. Let us not deceive ourselves at this solemn hour. Forms of words are of but little moment in a crisis like this. It is the great central fact that concerns the people to-day. The President has asked us to mail his arm to strike with the army and the navy of the United States; to authorize him to go down into Cuba and enforce the pacification of the island. He has asked us to authorize him to set up a government there which shall be a stable government, and a government "capable of observing international obligations." I quote the President's own words.

What kind of government can alone observe international obligations? Only an independent government, Mr. President. Therefore the President of the United States asks us to authorize him to use the army and the navy to stop the fighting in Cuba

no matter how they may differ on one proposition or another, and that agreement is that this situation must end. We can not go on indefinitely with this strain, this suspense, and this uncertainty, this tottering upon the verge of war. It is killing to business.

It is ruinous to our people in a thousand ways. It is discreditable to our Government and our country. If we are not to take action in regard to Cuba in order to bring this situation to an end, then let us stand up in the face of the world and say that we wash our hands of the whole affair; let us say that we will not intervene to save the starving, to put an end to hostilities, and that we will turn the case of the *Maine* over to a referee. If we are not prepared to do that, then let us act the other way. But, whatever happens, let us end this state of unendurable suspense. That, I believe, Mr. President, is the one great desire of the entire country.

The President has submitted this momentous question to the Congress of the United States. In his hands are placed by the Constitution all the diplomatic functions of the Government. He alone can address foreign powers; he alone can carry on correspondence through his ministers and officers. Congress has no diplomatic functions whatever. The President has told us that diplomacy is exhausted, and he has handed the case over to us. What power have we got? We have but one, Mr. President. The Constitution gives to Congress—I mean to both Houses constituting the entire Congress—but one power in relation to foreign countries—the last great weapon in the armory of nations—the war power. And now, Mr. President, when the President comes to Congress and invokes our aid in a controversy with a foreign country and asks us to give him power to intervene, I desire that that great power of war should be given to him in that way.

I am against a declaration of war, but I favor giving the President the power to intervene. I am against recognizing the government of the insurgent republic because the President of the United States, in his high responsibility, has advised Congress strongly against it. I will not myself part from that unity which I consider so much more important than aught else, and differ on that point.

I do not care to argue here the question of recognizing or not recognizing the government of the insurgents. Powerful arguments can be made both ways. We have heard one in the message of the President; we have heard another to-day from the Senator from Ohio [Mr. Foraker] on the other side.

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and establish an independent government in that island. How can there be an independent government in Cuba while Spain is there? It is an impossibility. The recommendations of the message mean that Spain must leave that island, and I for one think that if that is the purpose of the message, as it clearly is, there is no harm and much good in telling the truth. If we intervene, we do not go there to take Gomez by the throat and make him stop fighting. We go there to put Spain out of that island, for in no other way can we create a government capable of observing its international obligations.

They say we can not go to war about the *Maine*. Perhaps not. We are told that it is an incident. So be it. It is the outgrowth of the conditions in Cuba; it is the outgrowth of that Spanish rule; it is the outcome of that Spanish war, and it calls upon us to end the causes that made it possible. The men who were hurled from the sleep of life into the sleep of death call upon us from their graves to root out forever the causes which made their slaughter possible.

We are told that we must not go to war on the narrow ground of revenge. Revenge is an ugly word, although Bacon tells us that it is nothing but wild justice. No, not revenge; but we must have reparation for the *Maine*. We can not, as a nation, belittle that case or refuse to demand a great and shining atonement for our dead sailors. If we allow that to drop aside, to pass away into an endless tangle of negotiation and law and discussion, we are lost to all sense of brotherhood; we are lost to all love of kith and kin; our uniform will no longer be an honor and a protection; it will be a disgrace and danger to wear it.

Your men on your ships are sullen to-day because they think that the Government is not behind them. There are mutterings among the men who wear your uniform because they think you have not striven to redress the awful slaughter of their comrades. You must maintain the honor of the uniform and of the flag under which the men died. Surely, there never was a more righteous cause than this for any nation to ask for justice. That gigantic murder, the last spasm of a corrupt and dying society, which carried down our ship and our men, cries aloud for justice.

Mr. President, I care but little what form of words we adopt. I am ready to yield my opinions to those about me in Congress. Still more ready am I to defer to the wishes of the Executive, who stands, and must stand, at our head; but I want now to arm that Executive with powers which shall

enable him in the good providence of God to bring peace to Cuba and exact justice for the *Maine*. [Applause in the galleries.]

On April 14 George F. Hoar (Massachusetts) spoke to the resolution.

Born and bred in a cold latitude, I would rather approach this grave occasion in the spirit of that captain who led the company of the people of my own birthplace to the bridge in the morning of the Revolution, when he said, "I went into that battle with the same seriousness and the same sense of responsibility to God with which I am accustomed to go to church." If, in the providence of God, this country is called upon to do a great act of international justice, let us do it in the spirit of justice, and not in the spirit of vengeance.

The other day one Senator cited us, as if he liked it, the utterance of the Scripture, an eye for an eye and a tooth for a tooth. The Saviour cited it only to disapprove it and to give us a new commandment and a better doctrine.

I am not one of those, either, if any there be, who would seek to divide and not to unite the people of this country. If we are to enter upon a course of action where we receive the sympathy of the civilized world, let us not begin by reviling each other.

Mr. President, I regret, speaking for myself, that any Senator feels it to be his duty to indulge in harsh criticism of the President of the United States. What the President of the United States does in diplomacy the people of the United States do. There is no other means of knowing the opinion, purpose, conduct, character of the American people under our Constitution, so far as that is expressed in our diplomatic and international action, than by studying and seeing what the accredited agent of the American people, the Executive, has done, just as there is no mode of determining what the American people do or mean to do or desire to do in legislation but by the legislative enactments passed through their constitutional agencies.

What the President of the United States did the United States did in the face of mankind, and what the President of the United States refrained from doing the American people refrained from doing in the face of all mankind. For one, I approve him alike in what he has done and said and in what he has refrained from doing and saying. I like the President's holding back and striving with all his power for a peaceful

in this country or elsewhere, are times of debts and jobs and disordered currency and popular discontent. The periods that have followed the great wars are the worst periods in history. If we enter upon this war we are to subject our ships to many disasters like that of the *Maine* and our soldiers to pestilence and yellow fever. The destruction in the soldier who survives of the capacity for the rest of his life for the works of peace is a not insignificant result even of the best and most necessary war, to say nothing of the increase of the debt and of the pension list.

On the other hand, I have no patience and I have no respect for those critics who find in the conduct and action of many of my associates and friends on this floor what they are pleased to term a spirit of jingoism. The spirit which has inspired, without an exception, the impassioned and zealous speeches to which we have listened is the spirit of an honorable indignation at a great wrong and an honorable resentment for a great insult, and I believe these gentlemen who think, as I do, that the time has come when the armed forces of this nation are to be summoned to assert themselves have been guided certainly by quite as patriotic a spirit as I claim to be guided by myself, whether I agree with them in all their conclusions as to the detail of action or not.

But I was saying, Mr. President, that I like and thank President McKinley that he has, as far as he could and as long as he could, held back the impetuosity of the American people. President McKinley and those who love him and stand by him need not be at all disturbed lest his fame may suffer in the eyes of humanity and the eyes of posterity by the caution and wisdom with which he has proceeded. The great events in our civic history and the great names in our civic history are those which are connected with the sublime self-restraint with which the American people has contained itself in the presence of great wrongs and of great provocations. It is true, also, that these civic glories have more than once crowned the brows of great soldiers and warriors.

Have we forgotten that the same kind of speeches which the Senator from Washington permitted himself to utter—have we forgotten that the same kind of oburgation and contumely was hurled at the head of George Washington at the time of Jay's treaty, when he held back the indignant people of the Republic from entering upon another war with England? The fame of Washington is represented and typified by the loftiest of monumental structures as it rises in its severe and

solution of this business. I like his holding out for peace so long as there remained a hope that peace could be had with honor.

Mr. President, do gentlemen, when they criticize this brave American soldier's love of peace—and every brave American soldier from the beginning of our history has been a lover of peace—reflect what war is and who it is that suffers by it? The persons who suffer by modern wars are not the men who provoke them or the men who are guilty of the causes to which they owe their origin. Every modern war is an additional burden on the poor man, the laboring man, the plain man, while the glory is reaped by a few officers and the profits by a few stock jobbers and contractors.

It is not even the guilty Spaniard who is primarily to suffer by the terrible punishment which we are expected to inflict upon Spain. It is not the Weylers or even the Sagastas or the Blancos. It is the poor peasant whose first-born is to be drafted into the military service, never to return or to return a wreck. It is the widow whose stay is to be taken from her, who is to get no share of the glory, but only the full of the suffering. This war, if it be to come upon us, is to add a new and terrible burden, even if it be confined within the limits to which we hope it may be confined, to the already overburdened and suffering peasantry of Europe. The results of a great war are due to the policy of the king and the noble and the tyrant, not the policy of the people.

Every child upon the continent of Europe to-day was born with a mortgage of \$350 about his little neck and an armed soldier riding upon his back. So, while I agree, as will be seen before I finish, that war may be necessary, and it may be necessary now, yet I can not myself agree with my honorable friend the Senator from Mississippi [Mr. Money] when he said so lightly that he thought it was a good plan to have a war once in a while, that it prevented the dry rot of prolonged peace. A nation is made up of human homes, and the glory of a nation and the value of its possessions are in its humble homes. I do not agree with the Senator who thinks that a home is made better by the loss of its boys or the crippling for life of its head.

I do not like what follows war. I do not like the piling up in this country of thousands upon thousands of millions more of our public debt. I have not read history like the Senator from Mississippi in a way to lead me to think that war is ever a purifying process. The seasons which follow great wars, either

stainless beauty over the streets of the capital. Where, Mr. President, are the graves of his critics?

Mr. President, I am old enough to remember some of the tempests of popular excitement in Congress and out. I think there are Senators here who remember the cry of "On to Richmond! On to Richmond! On to Richmond!" and the denunciation by honorable and zealous patriots of what they described as the cowardice and treachery of Abraham Lincoln. I think people like to remember Abraham Lincoln's counsels in those days, and those of us who sit on this side of the Chamber wish we could forget Bull Run.

You remember, Mr. President, the sublime patience with which we waited after the French invasion of Mexico until the time at last came, and Mr. Seward spake and the Frenchman got out. You remember, my colleague [Senator Lodge] cited it yesterday, the impatience of some good men at our dealing with the Trent affair, and my colleague cited the lines of Mr. James Russell Lowell:

Elf I turn mad dogs loose, John,
On your front parlor stairs,
Would it jest meet your views, John,
To wait an' sue their heirs!

I wish to remind my honorable colleague, with whom I suppose I am so fortunate as to agree as to everything of substance relating to this political crisis, that we did not take the advice of Mr. James Russell Lowell on that occasion. We took the advice of Abraham Lincoln, and William H. Seward, and Charles Sumner, and John Andrew, and, on the whole, we came out about as well.

Mr. President, some of us remember President Grant's dealings with the same sort of conditions that we have had to deal with in the island of Cuba in the last two years. I came first into public life just as that matter was going on. We did not throw law books at each other's heads in those days in the House of Representatives, but there was quite as much angry speech for the President as we have heard in either House of Congress within a few days. But the great fame of Ulysses Grant shines in the sky like a star, and the conduct of that affair is one of the brightest and strongest of his claims to the gratitude and affection of the American people.

I think it is perhaps because I am getting old and thin blooded and losing my pluck in these matters. But, somehow or other, I like, when I read the history of the Republic, to

read the story of these sublime self-restraints, for which those men who hate popular government think a great and free people are incapable.

Do you remember how we submitted year after year to the fitting out in England of the warships which drove our commerce from the seas till, at last, one morning, Mr. Adams, having discovered that the rams were about to go out from Laird's shipyard, wrote a letter to Lord John Russell expostulating? Lord Russell replied that he had consulted Her Majesty's ministers and really they did not think they could do anything about it. Mr. Adams, when the time came, replied in a single sentence, which, to my taste, is the most sublime utterance in American literature: "It is superfluous to observe to your lordship that this is war." And the rams were stopped in an hour.

I also agree with the President of the United States in his refusal to recognize belligerency up to this time. I do not agree with my honorable friend from Ohio [Mr. Foraker], who thought the result of that was that we policed our shores in the interest of Spain. That recognition of belligerency, in my opinion, would have simply given Spain the right to search our ships; would have released her from responsibility for actions like the destruction of the *Maine*, unless they could be traced affirmatively and clearly to her, and would have done the insurgents no sort of good whatever.

Mr. President, what has been the result, what is the result to-day, of the conduct of this matter by President McKinley so far? I have not time to go, as I should like, into a full discussion of this matter, but I wish to read one testimonial only.

I read, Mr. President, from the *New York Sun* of April 5. "The delay thus far," says this organ of the cause of liberty in Cuba, "has served the cause of the right. It has given time for military and naval preparation for decisive action. It has consolidated public opinion and put the nation behind the President in his constitutional capacity of commander-in-chief of the land and sea forces of the United States. It has permitted the escape of some of the vapor that precedes deliberate and calm action in an affair of momentous importance. It has likewise enabled the President to exhaust, as it was his duty to employ and exhaust, the resources of diplomacy in order to bring about, if possible, an honorable and satisfactory settlement without resort to arms."

There is another result which has come from this diplomatic action and this striving to keep in the paths of peace. We have, what we never have had in any international conflict

of every European government that has got a colony in another continent or in an island adjacent to another continent. We do not need to be departing from the rules of international law. What we have in hand we shall know how to do lawfully and effectively.

Another thing. Senators talk about recognizing the insurgent republic. Is that insurgent republic the people of Cuba? The Senator from Ohio [Mr. Foraker] and, I believe, the committee in their report, both state the number of the people of Cuba who sympathize with the insurgent government. The committee states it as a third of the people of the island, and the Senator from Ohio stated it at 400,000. Now, although we may all sympathize, as we all do sympathize, with the gallantry of those insurgents, with the courage and leadership of Gomez, with the endurance and the devotion which are willing to give life and everything which makes life dear for the liberty of Cuba, by what right can you stand in the face of the nations of the earth and say that you will recognize as the lawful government of Cuba a community which the Senator from Ohio, in some sense the organ of the committee, and the chairman of the committee in his report tell us amounts to but a third of the inhabitants of that island?

Mr. President, there is another matter in which I do not agree with the honorable Senator from Ohio [Mr. Foraker]. I do not believe that the man who enters a house to put out a fire becomes legally responsible for every mortgage on the house, and I do not believe that a policeman who enters a disorderly house to subdue a riot or a fight, even if he has to take the proprietor into custody, becomes liable for every debt which the proprietor may have incurred. I do not think if we take Spain into custody, if we put her off the island of Cuba neck and heels, that we are in the least responsible for any mortgages she may have undertaken to put on the island.

WILLIAM E. MASON [Ill].—I wish to ask the Senator, after a man who enters a burning house has extinguished the fire, if he sets up ownership and says he will decide who shall run the house thereafter, whether he does not then incur responsibility?

SENATOR HOAR.—Nobody proposes to set up ownership and to prescribe who shall run that house hereafter.

Mr. President, I expect to vote for the House resolutions, unless I should have an opportunity to vote for the resolution of the honorable Senator from Colorado [Henry M. Teller]. That leads to war. There is no doubt about it. It will lead to the most honorable single war in all history, unless we except

before, largely the sympathy of all foreign nations and almost wholly the sympathy of that nation on earth which is alike the freest, the most powerful, and the most nearly allied to us by language, history, and blood.

I also desire to express my full and hearty concurrence with the President of the United States when he advises against the recognition of the insurgent government, if it be a government, now. Consul-General Lee says he has never thought the insurgents had anything but the skeleton of a government. I will not repeat the citations from international law and from the utterances of our statesmen and department of foreign affairs throughout the whole of the other Spanish conflicts in the Spanish-American countries which I have had occasion long ago to cite.

I affirm that to recognize that people now can not be done without disowning our whole history, without declaring that England was right and that we were wrong in the great controversy as to her conduct in the time of the rebellion, where there were eleven States, with a constitution, with courts, confederated into a republic; and yet we claimed, and England yielded, that she had no right to recognize their independence. We can not recognize that independency, as I say, without flying in the face of our whole diplomatic history. Before this discussion is over it may be desirable to return to that particular point again.

Gentlemen cite the precedent of France in the time of our Revolution. France did not pretend or claim that that recognition of the independence of the United States was anything but an act of war. She was hardly at peace with England. Before she had been driven off the continent of North America by the genius of Chatham and the military prowess of James Wolfe, and she had sat, sulky and angry, biding her time during twelve years of hollow and treacherous truce, and when the time came France hastened to throw her weight into our scale.

Mr. President, we want to gain and we want to keep in this struggle into which we are about to enter the sympathy of the civilized world, and we can only keep it by maintaining the pathway marked out for us by the law of nations. If we depart in dealing with Spain from the accepted traditions and rules of international law, especially if we depart from those rules which we have affirmed over and over again during our own history, we can not blame them if they shall sympathize with Spain for departing from them also. If we put the issue on any doubtful ground, we make the cause of Spain the cause

was entered upon by brave people in the assertion of their own liberty. It leads to war. It is a war in which there does not enter the slightest thought or desire of foreign conquest or of national gain or advantage.

I have not heard throughout this whole discussion in Senate or House an expression of a desire to subjugate and occupy Cuba for the purposes of our own country. There is nothing of that kind suggested. It is disclaimed by the President, disclaimed by the committee, disclaimed by everybody, so far as I am aware. It is entered into for the single and sole reason that three or four hundred thousand human beings, within 90 miles of our shores, have been subjected to the policy intended, or at any rate having the effect, deliberately to starve them to death—men, women, and children; old men, mothers, and infants.

If there have been any hasty or unwise utterances of impatience in such a cause as that, and I think there have been, they have been honest, brave, humane utterances. But, when I enter upon this war, I want to enter upon it with a united American people—President and Senate and House, and navy and army, and Democrat and Republican, all joining hands and all marching one way. I want to enter upon it with the sanction of international law, with the sympathy of all humane and liberty-loving nations, with the approval of our own consciences, and with a certainty of the applauding judgment of history.

I confess I do not like to think of the genius of America angry, snarling, shouting, screaming, kicking, clawing with her nails. I like rather to think of her in her august and serene beauty, inspired by a sentiment even toward her enemies not of hate, but of love, perhaps a little pale in the cheek and a dangerous light in her eye, but with a smile on her lips, as sure, determined, unerring, invincible as was the Archangel Michael when he struck down and trampled upon the Demon of Darkness. [Applause in the galleries.]

Charles W. Fairbanks (Indiana) declared that the seemingly opposing views of Senators on the question were practically the same.

One contention is that we shall first recognize the independence of the present Cuban Republic and then intervene with force to sustain it; while the opposite contention is that we shall intervene with force and then acknowledge the independence of the present republic, if, when in possession of adequate in-

formation, its recognition is proper; and if it is not a proper government to recognize, then that we shall recognize some republic which the patriots of Cuba may deliberately form. Such is the divergency of our views, though we are seeking to attain the same end.

Is there subtlety enough here to measure the difference in our obligations—our international liabilities under these two methods? Mr. President, I am free to confess that I am unable to see why our ultimate responsibility would not be the same in the one case as in the other. The final end is the same, though the processes are slightly different. It seems to me that the substance of our act must control, and not the mere form. Haste, sir, in this vital matter is not of the essence of the situation; correct conclusions, sound and stable results, should be our sole and only aim.

But, Mr. President, no liability will rest upon us whichever method we pursue. Spain has, by her course, which it is unnecessary to review in this connection, forfeited her right to further dominion over Cuba or its revenues. If the revenues were ever pledged to the satisfaction of a series of Spanish bonds, such pledge was necessarily subject to the forfeiture of the island for the violation of those humane principles and precepts which are observed by the civilized nations of the earth.

Sir, the rights of humanity are superior to the rights of bondholders. We violate neither the law of nations nor incur the burdens which rest upon Spain by our act of recognition either before or after intervention. If our act is warranted by the considerations of humanity, no bondholder can be heard to complain.

When the bonds were taken under a specific pledge, they were taken upon the implied understanding that the pledgee would observe its international obligations according to the standard of civilized nations. The bondholder was presumed to know that a violation of those obligations would work a forfeiture of the estate and the dispossession of the sovereignty of the obligor. The bonds, sir, were taken subject to a condition, and that condition was the proper observance and practice of the rules of humanity, the faithful discharge of international duties. The condition, sir, has been broken.

All efforts at amicable solution have failed, and all that remains is to invoke the mighty power of this Government in behalf of enduring peace and imperiled humanity. We shall now have the satisfaction of knowing that, come what may in the lottery of war, we have left undone nothing which could

turn to them the cold shoulder now, will we not inspire them with suspicion? They are a suspicious people: They could not have lived under Spanish dominion and been intelligent and not suspicious.

They have been fooled and betrayed for many years by Spain. They have not been accustomed to deal with manly, upright, straightforward, and candid folk who said "enemy" when they meant enemy and said "friend" when they meant friend; and if, after all of our professions which have gone to them upon the voice of the winds from the firesides of the United States, they should see that when the supreme moment came we voted down the recognition of the republic which had been copied in part from us, that we rebuked the ideas of independence through presidential message and through congressional speech, will they not feel, and justly feel, that they have grounds to suspect their alleged new-found friends?

As a matter of war, recognition is essential. If an American army should go to Cuba, Gomez will be ready to welcome them, and there will be no American soldier who would not be pleased to coördinate with him in campaigns and to receive his suggestions with respect to them. The distinguished consul-general of the United States [Gen. Fitzhugh Lee], who has so ably performed his part in Cuba as to win golden opinions from all sorts of people, has testified before our committee, and he testified as a soldier educated at West Point, a man of large experience, who has taken part in Indian wars upon the Western plains and who was major-general of cavalry in the Army of Northern Virginia. He said that Gomez has taken the only method to beat Spain which an accomplished and able general could have taken; and are we to say at the very moment when we need his services, at the very moment when he has reached the point of recognition, at the very moment when you are asking the United States to go with him and fight the same enemy, that you will turn the cold shoulder to the general-in-chief whose cause is at last the groundwork of your whole action?

Mr. President, we should recognize the Republic of Cuba to avoid international complications, fiscal, diplomatic, and diverging in all directions. I will not say that I am of opinion that the honorable Senator from Ohio [Mr. Foraker] is correct in stating as a fact that if the United States should go to Cuba without recognizing the republic it would thereby and thereupon make itself liable for any part of the Spanish obligations which have entailed upon Cuba a mortgage of some kind or other as collateral security. But it would leave a question

be done consistently with honor to secure a pacific settlement. The Spanish flag must be withdrawn and cease forever to contaminate the air of this hemisphere. To the high and holy cause of humanity and the vindication of our national honor we dedicate the lives and fortune of the Republic.

John W. Daniel (Virginia) spoke on April 15.

Mr. President, there are three sources under our Government thus depicted with a pencil of light from which recognition may be derived. The one is through the action of the Executive in an appropriate case presented to him. The second is in the action of the Executive and the Senate by treaty in an appropriate case presented to them. The third is by vote of the Senate and House of Representatives under the veto power of the Executive and under the constitutional prerogative to pass laws. We invoke the most august of all these powers to recognize the independence of the republic of Cuba. It is the Senate and the House and the Executive acting as one.

Not only will the recognition of the Cuban republic clarify a muddy situation. It ought to be predicated, however, upon the germinal, bed-rock ground of right. If they are a free and independent state, that state must have the inalienable right to determine its own form of government; and the determination by a free and independent people of who their executive is and of who their authority is is a conclusive determination binding by international law upon all other governments in the world. Would we permit in this country any nation on the earth to determine who were our Congress and who our President? When the nations of the earth recognized either the people in their scattered and individual capacity or the nation in its unity or the country in its integrity as free and independent, the rest went as matter of logical and necessary consequence. I would say that it went to-day as a matter of logical and necessary consequence if I did not see the strange spectacle on this floor of men proclaiming the one and stating doctrines in the same resolution or in speeches in support of it which imply the other.

Mr. President, I believe that the recognition of the Cuban republic is at this juncture necessary and expedient to the United States as a peace measure and as a war measure. If the army of Gomez and the people whose homes and firesides have furnished it are made at once the comrades in arms, the friends, the allies, the recognized freemen like those of the United States, they will owe to us an everlasting obligation. But if we should

in our path which might be the source of much international trouble. I believe that the correct doctrine is that a war for independence waged by Cuba, or a war made necessary on the part of the United States for its own peace and safety, would not in any event which is likely to happen entail upon the United States any responsibility for any part of either the Cuban or Spanish debt.

At the same time I can not blind my eyes either to the thoughts or to the plans and schemes of other people. I do know as well as I know anything of which I have no physical demonstration that there are those who fancy that the United States will make itself liable, by pursuing the course recommended in these resolutions, for a whole or a part of the Cuban debt imposed on her by Spain. I say, sir, it is the part of prudence, of forehandedness, of foresight to avoid every question that can be anticipated and to solve every difficulty that may be presented at the first moment when it is realized to exist; and that in order to avoid this complication, in order to silence the suggestion of such a question, in order to destroy the germs of what may become a very fatal financial disease, I would here and now recognize the Cuban Republic as a free and independent nation, and let her profile stand out against the sky separate from the domination or the establishment of the United States.

What cause is it, Mr. President, that this solid, unanimous, native-born population of Cuba stands for? It is for a cause well known in English history. It is a cause which has made the most glorious character and evolved the most glorious principles of Anglo-Saxon freedom and independence. It is the cause for which the brave English people, tied to the traditions of monarchy and loving their sovereign, followed the Ironsides of Cromwell, drove out the Parliament, and laid the head of Charles, the King, upon the block.

It is the cause of just taxation. It is the cause, Mr. President, which made America a free and independent republic. It is the cause which threw the tea into Boston harbor. It is the cause that makes the name of Concord and Lexington ring throughout the world. It is a cause which, for the time being, died on the brow of Bunker Hill when Warren fell, but which will live forever on Bunker Hill and through all America as long as American hearts are true to the proud and germinal traditions of the English-speaking race.

It is the cause for which the august Chief-Justice, John Marshall, of the United States fleshed his maiden sword at the Great

Bridge near Norfolk. It is the cause for which James Monroe bled in the streets of Trenton. It is the cause for which Otis and Adams and Hancock and Henry spoke. It is the cause which of all causes America has ever held, and which she to-day holds, most dear—the cause ever hallowed by the name and leadership of Washington. And that cause upon the island of Cuba has a flag to represent it. It has soldiers to fight for it. It has patriots to bleed, to die, for it, and it has a unanimous population ready to starve and to perish rather than that cause shall fall.

And yet we are told that with a population, white and black, unanimous for a cause, with a population that has cherished that cause for thirty years, with a population which has done acts of heroism for that cause which have commanded the admiration of the world, we can look out toward the island of Cuba, we can see in its harbor the wreck of the American battleship *Maine*, we can see the yellow flag of Spain floating over Morro Castle, we can see the hospital and the dungeon, we can bend in the misery and pity of tears over 200,000 women and children dying, and yet the great United States of America can see nowhere the heroic Cuban army and soldiery who stand for the great cause of liberty and independence!

Mr. President, I will not be driven by committees, I will not be driven by Presidents; I had rather be a political Cuban reconcentrado upon the island of Cuba than be an American Senator and not proclaim the independence and freedom of the brave young Cuban Republic. I would proclaim it with a thought and a prayer in my heart, the one the sententious utterance of Thomas Jefferson, who, in a few words, has summed up all free constitutions, who, in a sentence, has written all declarations of independence, who has proclaimed to the world that "liberty is the gift of God." And as the United States makes that declaration for poor Cuba as she recognizes the youngest heir in the files of time that comes to its God-given inheritance, my heart would lift to heaven with the aspiration of Abraham Lincoln, "I would that all men everywhere might be free." [Applause in the galleries.]

Henry M. Teller (Colorado) spoke on the report of the committee.

Mr. President, I am loath to criticize a committee. I believe that this report, written with great vigor and with great intelligence and indicative of great learning, would have justified the

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a condition of affairs exists there that we are in duty bound to remove the cause of complaint.

Mr. President, I want the Senate, before we conclude this debate, to say to the world in the most emphatic manner possible that we do not intend in any way or manner to derive benefit from this intervention. Spain is too weak and too poor to pay indemnity. I want the Senate to say that we do not intend to take that island; that whatever we may do as to some other islands, as to this island, the great bone of contention, we do not intend to take it from the legally constituted authorities of the island as now established.

At the proper time, if no one else does so, I propose to offer some amendment to the joint resolution that shall make it clear to the world that it shall not be said by any European government, when we go out to make battle for the liberty and freedom of Cuban patriots, that we are doing it for the purpose of aggrandizement for ourselves or the increasing of our territorial holdings.

If war comes I would make it so severe that the flag of Spain would be driven from every holding of hers on the face of the earth except the little country she occupies in Europe, and I would say to the allied powers, if they raised a question of intervention on our part, "We will fight the world in arms in defence of the right of the American people to control the affairs in the Western Hemisphere as they think they ought to be controlled." All you need to do is to say it, say it with our Anglo-Saxon vigor, say it with American pluck back of it, say it with 75,000,000 of united people, with the greatest wealth in the world back of them, and the world will stand and consider and they will not put their hand upon us. [Applause from the galleries.]

The resolutions came to a vote in the Senate on April 16. David Turpie (Indiana), following the suggestion of Senator Teller, moved to amend the first resolution so as to read:

That the people of the island of Cuba are, and of right ought to be, free and independent, and that the Government of the United States hereby recognizes the Republic of Cuba as the true and lawful government of that island.¹

¹ This became famous in the discussion of the Philippines question as the "Teller resolution."

committee in saying, in view of what we have declared, "Congress should recognize the independence of the Republic of Cuba." I believe that that was the first intention of the committee, and that is all I think perhaps I ought to say with reference to it, except that I regret the committee did not come here with a resolution in accordance with the declaration they made of the state of facts which we all know exists.

Now, I wish to take a moment, and only a moment, for I do not intend to detain the Senate at any length with my remarks, to call attention first to the joint resolution reported by the committee:

That the people of the island of Cuba are, and of right ought to be, free and independent.

That is a proposition to which I agree. They can not be free and independent without an organization. With all deference to the committee, when they come here and talk to me about the independence of the people of Cuba they stultify themselves and, in fact, declare if independence exists there at all there must be a government, for it can only exist under an organized government of some character or kind.

As I said before, if the facts are as stated in the joint resolution, the joint resolution as reported should be amended as proposed by the minority, and we should insert, after the word "independent," "and that the Government of the United States hereby recognizes the Republic of Cuba as the true and lawful government of that island." I shall vote for the minority amendment. I shall vote for it with the feeling that it will afford relief to the Cubans and that it will save us from much embarrassment in our dealing with this question.

I do not deny the right of the Government of the United States to intervene there with or without reference to the Republic of Cuba, if it exists. As long as Spain denies that it exists and continues her controversy and contest, the Government of the United States may, in the interest of humanity or in the interest of her own people, intervene; but we must intervene, if intervene we do, with a declaration to the world that we are not making, under the pretence of intervention, a war of conquest, that we are not after the island. For the outrage committed upon us, if Spain blew up our ship, we may go to war; we may declare that a state of war exists. That is the first movement. But intervention is not to save our rights or redress our wrongs. Intervention is justified only when such

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This was agreed to by a vote of 515 to 37. Senator Davis then moved to add a fourth resolution:

That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people.

This was agreed to without dissent. The resolutions as amended were passed by a vote of 67 to 21.

Senator Davis then began to move the substitution, *seriatim*, of these resolutions for resolutions which had just come to the Senate after passage by the House. Upon objection by several Senators that this procedure was not according to parliamentary usage, nor courteous to the House, which had the right to concur in the Senate's intention before this was definitely resolved upon, Senator Davis withdrew his motion.

CUBAN INDEPENDENCE

HOUSE OF REPRESENTATIVES, APRIL 13-17, 1898

On April 13 Robert Adams, Jr. (Pennsylvania), of the Committee on Foreign Affairs, to which had been referred numerous resolutions on the subject of Cuban independence, presented to the House the following joint resolution as the report of the majority of the committee:

Whereas, the Government of Spain for three years past has been waging war on the island of Cuba against a revolution by the inhabitants thereof, without making any substantial progress toward the suppression of said revolution, and has conducted the warfare in a manner contrary to the laws of nations, by methods inhuman and uncivilized, causing the death by starvation of more than 200,000 innocent non-combatants, the victims being for the most part helpless women and children, inflicting intolerable injury to the commercial interests of the United States, involving the destruction of the lives and property of many of our citizens, entailing the expenditure of millions of money in patrolling our coasts and policing the high seas in order to maintain our neutrality, and

Whereas this long series of losses, injuries, and burdens for which Spain is responsible has culminated in the destruction of the United States battleship *Maine* in the harbor of Havana and in the death of 260 of our seamen;

Resolved, That the President is hereby authorized and directed to intervene at once to stop the war in Cuba, to the end and with the purpose of securing permanent peace and order there and establishing by the free action of the people thereof a stable and independent government of their own in the island of Cuba. And the President is hereby authorized and empowered to use the land and naval forces of the United States to execute the purpose of this resolution.

The minority resolutions were then read:

Section 1. That the United States Government hereby recognizes the independence of the Republic of Cuba.

[Loud applause on the Democratic side.]

Sec. 2. That, moved thereto by many considerations of humanity, of interest, and of provocation, among which are the deliberate mooring of our battleship, the *Maine*, over a submarine mine and its destruction in the harbor of Havana, the President of the United States be, and he is hereby, directed to employ immediately the land and naval forces of the United States in aiding the Republic of Cuba to maintain the independence hereby recognized.

[Loud applause on the Democratic side.]

Sec. 3. That the President of the United States is hereby authorized and directed to extend immediate relief to the starving people of Cuba.

After some determined opposition Hugh A. Dinsmore (Arkansas) succeeded in presenting the report of the minority on its resolutions. This speech is notable for an attack on President McKinley.

The gentleman from Ohio [Mr. Grosvenor], being the friend of the President and supposed to voice his sentiments, says that the President of the United States is in favor of the independence of Cuba. Did he demand of Spain the independence of Cuba? Oh, no; we were made to believe so, but he did not. His minister told the Spanish Cabinet that the President did not demand independence. His Attorney-General,¹ it seems, thought that "stable" was the diplomatic word for independence, and in his message to Congress the President,

¹ John W. Griggs.

now do not fulfill those obligations. It would be impossible for our Government to recognize the insurgents in Cuba. The very fact that, if you wish to send an envoy there, you would have to send him by force through the Spanish lines, or you would have to land him on a beach, the same as the insurgents and filibusters have to land their munitions in that country, is enough to show that they have not standing for recognition.

They have not that stable government which is entitled to recognition. They have not power to carry on civil government. They have no capital or permanently located seat of government. They have not a single port in their possession. They have not a single ship on the high seas. They have not a government under civil authority that can enforce its laws.

They are surrounded entirely by the Spanish army. And it is a principle of international law which will not be disputed by any man who knows anything on that subject that until the parent country has practically ceased to enforce its government against the rebellious subjects, no other nation can give the insurgents recognition as a government, because they do not have it as a matter of fact. No man can question that principle of international law. We have fully committed ourselves to it as a nation. No South American republic was recognized by us until years after Spain had yielded all active effort to subdue it.

What is the condition in the island of Cuba to-day? Spain has a large army there. She occupies every seaport. She is still endeavoring to enforce her authority over that island. For this reason the Executive of this country and the Republican members of the Foreign Affairs Committee can not bring themselves to falsify the diplomatic history of our country and place themselves in a position antagonistic to the recognized principles of international law, for the country that dares to do this puts itself beyond the pale of the great family of civilized nations.

Mr. Speaker, having thus stated some of the reasons which actuated the majority of the Foreign Affairs Committee in adopting the action embodied in the pending resolution, let me say a word in conclusion. We stand, as I believe, in one of the greatest and most momentous eras in the history of our country; and as an American representative I want to make a strong appeal to the men of this House without respect to party. When the roll is called and the demand is made upon them to defend American honor and American rights, which have been assailed by the Spanish nation, I ask that one and all rise in their places and cast their votes to show the world, as we did a few weeks ago, that however we may differ upon matters of detail, we are

to be consistent with his demands upon Spain, only asks that a stable government be given to the Cubans. Oh, the pity of it! Oh, the humiliation to all true Americans! Long and anxiously in this House have we waited for some message or expression from the President of the United States conveying to our anxious ears the glad news that he believed in the independence of Cuba. When did it come? He sent us the message which was read in the hearing of all the members of this House. Notwithstanding the statements which have been made in trying to bolster up that document since, you all know how it fell like a wet blanket upon that side of the House, upon the patriotic men over there whose hearts bled for the suffering Cubans, struggling for the liberties that every American believes every God-born individual has a right to possess.

We offer to you and to the country our substitute for your resolution, and appeal to the wisdom, patriotism, and judgment of our fellow-citizens, and for the rectitude of our intentions, the integrity of our purpose, the justice of our position, to that higher court which must pass upon the actions of all men and all nations,

Our fathers' God, from out whose hand
The centuries fall like grains of sand.

[Loud applause.]

Mr. Adams supported the majority resolutions.

Mr. Speaker, I wish to reply to the remarks of the gentleman from Arkansas as to why we do not recognize the present legislative government of Cuba. Mr. Speaker, our country must proceed in order, under the rules of international law, if we wish to preserve our standing among the nations of the earth. Our President has pursued a consistent course. As soon as he entered the executive chair he made propositions to Spain, all of which have been granted. He had not been in office sixty days until every American citizen, native born, or those bearing the official stamp of our courts, was set free to breathe that air of freedom which God meant we should enjoy.

The alleged Republic of Cuba has my sympathy. I believe that the men who have struggled so long to obtain their freedom are entitled to our sympathy, and, if possible, to our recognition. But they must first have a standing, such standing under international law as will justify the executive department of our Government in giving such recognition. The conditions

Americans one and all and that politics cease at the seacoast. [Loud applause.]

A motion to substitute the minority for the majority resolutions was voted down: yeas, 150; nays, 190. The majority resolutions were then passed by a vote of 325 to 19.

The first conference between the two Chambers on the subject ended in a disagreement, and a second was appointed. The joint committee made its report on April 18. It presented the following resolutions:

First. That the people of the island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination when that is accomplished to leave the government and control of the island to its people.

The Senate agreed to the report by a vote of 42 to 35, and the House by a vote of 311 to 6. The President approved the resolution on April 20.

War with Spain followed this declaration. At its close, by the Treaty of Paris, December 10, 1898, Spain relinquished the sovereignty of Cuba, and the United States took temporary possession of the island, assuming all the international obligations arising therefrom. In December, 1901, the Cuban people elected Estrada Palma as President under a Republican constitution, and on May 20, 1902, the United States formally withdrew from the island.

CHAPTER V

THE ANNEXATION OF HAWAII

The Hawaiian Revolution—The Republic Asks for Annexation to the United States—Francis G. Newlands [Nev.] Introduces in the House Joint Resolution to Annex Hawaii—Debate: in Favor, Robert R. Hitt [Ill.], James A. Tawney [Minn.], Joseph H. Walker [Mass.], William Sulzer [N. Y.], Jonathan P. Dolliver [Ia.], William P. Hepburn [Ia.]; Opposed, Hugh A. Dinsmore [Ark.], Champ Clark [Mo.], John W. Gaines [Tenn.], Henry U. Johnson [Ind.]; Resolution Is Passed—Debate in the Senate: in Favor, George F. Hoar [Mass.]; Opposed, Justin S. Morrill [Vt.], Augustus O. Bacon [Ga.], William B. Bates [Tenn.]; Annexation Is Enacted.

ON February 12, 1874, a few days after the death of the childless King, Lunalilo, the Hawaiian legislature chose David Kalakaua as King. This was against the direct opposition of Emma, the Queen Dowager, whose partisans raised a riot in Honolulu which was quelled only by marines and sailors landing from British and American ships in the harbor. In appreciation of the American assistance King Kalakaua visited this country during the same year. Largely as a result of this visit a treaty of reciprocity was negotiated during the next year between Hawaii and the United States. It was renewed in 1887.

As time passed the King gave way more and more to the reactionary impulse common to Hawaiian monarchs, until on January 30, 1887, the party of progress, led by persons of American blood (many descended from early missionaries), held a mass meeting in Honolulu at which they demanded from the King a new constitution with guaranties of better government, such as the placing of the Cabinet under the control of the legislature. The constitution being ratified by the people, the King reluctantly signed it. Then, en-

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success of the revolution. The royal party, taking heart from this report, began to treat with the United States Government for the restoration of the Queen, but her refusal to grant a general amnesty to the revolutionists stopped all the negotiations.

Thus thrown upon their own resources the Hawaiian provisional government on July 4, 1894, declared Hawaii a republic, and organized it as such, with Sanford B. Dole as President, and with a legislature of two chambers.



THE CHAMPION MASHER OF THE UNIVERSE
By Victor Gillam in "Judge"

When the Republican party in the United States came into power again in 1897 after the Presidential campaign of 1896 in which the Republicans had denounced the course of President Cleveland and his party on the Hawaiian question, the Dole administration renewed the negotiations for annexation, and a treaty was made by President McKinley, which was ratified by the Hawaiian Senate, though not by the American.

The destruction of the Spanish fleet in Manila bay by Commodore George Dewey on May 1, 1898, caused a renewed interest in the annexation of Hawaii, the "half way place" to the Orient.

couraged by his sister, Liliuokalani, he schemed to regain his former power, and in 1889 attempted by force to overthrow the new constitutional government. His adherents were defeated in the skirmish which ensued.

On January 20, 1891, Kalakaua died in San Francisco, and was succeeded by Liliuokalani, who tried to continue his reactionary policy. Two years later, learning that she was about to attempt to overthrow the constitutional government by another revolution, the progressives formed a Committee of Thirteen to protect the constitution. On January 15, 1893, this committee passed a resolution advising abolition of the monarchy and application to the United States for annexation, and constituted itself a provisional government. The progressives openly preparing to effect their purposes by force, the Queen's ministers appealed to the foreign legations for the protection of Her Majesty's Government.

Not for this purpose, but to protect American interests, the American minister, John L. Stevens, had a force of marines and sailors landed in Honolulu from the U. S. S. *Boston* in the harbor. Holding that the provisional government was the government *de facto*, he recognized it on the part of the United States, and, in order to sustain it in this critical stage, on his own responsibility on February 16 declared it under the protection of our Government.

In the meantime Hawaiian commissioners had set out for Washington, D. C., to negotiate the treaty of annexation. A few days before his term expired President Harrison submitted to Congress such a treaty, but upon the accession of President Cleveland, largely by the influence of the new Executive, the treaty was withdrawn and Minister Stevens' actions were disavowed, a special commissioner, Albert Sydney Willis [Kentucky], being sent to Honolulu for the purpose. Another special commissioner, James Blount [Georgia], was sent to Honolulu to report on the situation.

Mr. Blount reported that the minister's actions had been unwarranted—indeed, that the landing of the American marines had been the deciding factor in the

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GREAT AMERICAN DEBATES

On May 4 Francis G. Newlands (Nevada) introduced in the House a joint resolution to annex Hawaii to the United States. It was referred to the Committee on Foreign Affairs. On May 17 Robert R. Hitt (Illinois), chairman of the committee, reported the resolution without amendment accompanied by a report of the majority of the committee. Hugh A. Dinsmore (Arkansas) presented the minority report.

The subject came up for discussion on June 11.

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HOUSE OF REPRESENTATIVES, JUNE 11-JULY 6, 1898

Mr. Hitt stated that the measure was substantially the same as the treaty of the previous year, as well as the treaty of 1893.

This is not a novel question at all. It is not an emergency proposition sprung upon us suddenly. It is not a case of greed for territory and overweening influence brought to bear by a great and powerful government upon one of the smallest in the world to constrain it to give up its independent existence and be absorbed by the other under the form of a legal proceeding. There is no oppression on our side, there is no unwillingness on the other side.

It is in pursuance of a policy long discussed and well known there and to our people here and to all the world. It is a result often contemplated by the successive governments of those islands for fifty years, because the circumstances surrounding the little nation in all the changes in its history have plainly made this a foregone conclusion. So slender, so tottering a political existence in the midst of the mighty political powers of the world had a precarious tenure of life. It was a continual temptation to them—an all-important possession of a weak power. It has often been threatened. Several times it has been seized and occupied by a passing commander of a frigate—by a French captain in 1829, by a British commander in 1843, again by the French in 1849.

Conscious of its feeble ability to maintain independence among the nations, the subject of union with our country has been contemplated long. One of the kings of Hawaii executed a deed of cession to the United States in 1851. Another of the kings prepared a draft of a treaty of annexation to the United States in 1854, but before it was executed he died. It is the

natural result of events and causes long operating and now concluding with mutual, cordial consent.

Therefore the only question we have to consider, when this little commonwealth with open hands offers itself to us, is whether the possession of these islands is of any value to us or not.

Other nations have long since expressed their opinion of the value of the islands in many ways. Though it is a very small nationality, a very small extent of the earth's surface, not equal in people to a Congressional district represented on this floor, yet nineteen nations continually maintain representatives at Honolulu to watch their interests. We keep there to-day an envoy extraordinary and minister plenipotentiary. Why? Not because they are fertile and beautiful islands, not because there are a little over a hundred thousand people there. No; it is because of the supreme importance and value of the islands on account of their position.

They sit facing our Western coast—that long stretch confronting the great Pacific Ocean, the most extensive body of water in the world, stretching away for six, seven, eight thousand miles—and they are the nearest point to our coast, and far, very far, removed from any other point in that vast sea. They are 2,000 miles away from us. That seems a very considerable distance, but the immense stretch beyond them to the other portions of the earth is so much greater that they seem comparatively near and are a part of our own system.

With the great change in the construction of fighting ships, all of which are now moved by steam, coal has become an essential of maritime war, as much so as powder or guns, and across that wide ocean any vessel of war coming to attack the United States must stop for coal and supplies at the Hawaiian Islands before it can attack us. No ship can be constructed, no battleship exists in the world, which can make the trip from the other side of that wide sea to our shores, conduct any operation of hostility against us, and ever get back unless it has its supply of coal renewed.

We have on this critical and central question, the opinions of the most distinguished, specially expert, and able men of the age, the greatest commanders of our armies and our fleets who are living—Admiral Walker and Captain Mahan and General Schofield, Admiral Belknap, General Alexander, and Admiral Dupont and Chief Engineer Melville. It is an impressive and convincing fact that all have given the same opinion. Everyone has stated that the possession of those islands was to

Admiral Dupont, in a report made as long ago as 1851, expressed his view in these words:

Should circumstances ever place the Sandwich Islands in our hands, they would prove the most important acquisition we could make in the whole Pacific Ocean—an acquisition intimately connected with our commercial and naval supremacy in those seas.

For a war of defence the Hawaiian Islands are to us inestimably important, most essential. We have fleets and strong land forces and coast defences on the east. We have comparatively slender preparations on the west coast. There is not anywhere on the east a group of islands of such cardinal and unique importance as the Sandwich Islands—not even the Bermudas.

Not only in defensive war but in war of any kind they are necessary to us. In the events of the hour we have an illustration of the importance and the military necessity of possessing those islands. The present war was begun for the declared purpose of expelling Spain from Cuba and liberating the struggling people of that island; but once involved in war, it is the duty of the President, who is commander of the army and navy, to strike at Spain wherever he can effectively; and a great and successful blow was struck in Manila by gallant Admiral Dewey and his fleet. [Applause.]

There is no one in our country so recreant to his duty as an American that he would refuse to support the President in succoring Dewey after his magnificent victory, lying in Manila Bay, holding in control the Spanish power there, but unable to land for want of reinforcements and surrounded by millions of Spanish subjects. Yet it is not possible to send support to Dewey to-day without taking on coal and supplies at Honolulu in the Hawaiian Islands—a neutral power.

By the law of nations, that power is bound to refuse to allow ships engaged in war to take on supplies or stay in port over twenty-four hours and is liable for all damages to Spanish interests caused by allowing the rules of neutrality in war to be violated by us. We are strong; Hawaii is weak. We absolutely must use that port, and do use it.

While we have been giving notice to the great powers of France, Germany, and Great Britain that war was existing and calling their attention to their duty as neutral powers, in order that they might issue neutrality proclamations, we came on the west to the little Republic of Hawaii, and without a word of courtesy or request took possession of all we cared to take,

us of great importance, many of them say indispensable; that it will diminish, not increase, the necessity for naval force, economize ships of war and not require more; that, in the possession of an enemy, if we shall so foolishly and unwisely act as to refuse annexation and permit them to pass into the hands of an enemy, they will furnish a secure base for active operations to harass and destroy the cities of our Western coast; that, in our possession, duly fortified, those islands will paralyze any fleet, however strong, however superior to our own naval force in the Pacific, before it can attack our coast. On one of the islands is Pearl Harbor, now unimproved, a possible stronghold and a refuge for a fleet, which, fortified by the expenditure of half a million dollars and garrisoned and aided by the militia of the island and its resources, can be made impregnable to any naval force, however large.

I speak of a naval force. To capture it there must be a land force also. The possession of all the islands was stated by those able men, who were before the committee, to be essential, as they would furnish a valuable militia to promptly co-operate with a garrison of one or two regiments of artillery until, in the short distance from our shore, we could reinforce them with abundant military strength to repel the assault of the disembarking troops, who must come many thousands of miles farther than our own.

General Schofield, who spent three months on the islands and made a careful survey of Pearl River Harbor, when asked whether it would be sufficient to have Pearl Harbor without the islands, stated to our committee that we ought to have the islands to hold the harbor; that if left free and neutral complications would arise with foreign nations, who would take advantage of a weak little republic with claims for damages enforced by war ships, as is frequently seen. If annexed, we would settle any dispute with a foreign nation; that we would be much stronger if we owned the islands as part of our territory, and would then also have the resources of the islands, which are so fertile, for military supplies; that, if we do not have the political control, they may become Japanese; and we would be surrounded by a hostile people.

Admiral Walker, who has had long experience in the waters of the Hawaiian Islands, emphatically confirmed the views of General Schofield, especially that it would cost far less to protect the Pacific coast with the Hawaiian Islands than without them; that it would be taking a point of advantage instead of giving it to your enemy.

in utter contempt of her neutrality, of our duties as a belligerent nation dealing with a neutral country, and in disregard of the heavy liabilities we forced upon Hawaii.

The rules of neutrality sprang from our suggestion. When the treaty of Washington was negotiated in this city in 1871, the United States presented and proposed three general rules which should be observed by a neutral nation and determine its liability. The English refused to assent to them in the language first proposed, and after long debate and modification at last those rules were put in due form, accepted, and solemnly placed in that famous treaty.

Under this treaty we collected \$15,500,000 from Great Britain for depredations committed on our interests by ships that had been coaled or harbored in British ports. So for every damage done to Spanish interests by an American war ship which has been supplied, repaired, or coaled in the Sandwich Islands that government, the property of the people of those islands, is liable to pay to Spain the full amount of loss.

When this war is over and peace is declared, if the gentlemen opposed to this resolution prevail and prevent annexation and continue Hawaii's independent existence, if the liabilities of the islands on the claims of Spain against the Republic of Hawaii should be referred to arbitration, and the President of the United States should be one of the arbitrators, he would have to vote to compel them to pay the last cent, no matter how vast might be the burden of taxation it would impose on that little people.

Now, this is not a vague speculation. It is not merely hypothetical. The property owners in the island are alarmed. The foreign powers represented there are active. I hold in my hand a dispatch from our minister at Honolulu of May 10, a part of which I will read:

The strongest influence has been brought to bear upon the government urging it to proclaim neutrality, give notice to the *Bennington* to leave port, and invite the coöperation of other powers to protect the neutrality of the group.

But without any words from us or any assurance from our Government, notwithstanding the pressure to which it has been subjected, the brave little Hawaiian Government, loving America better than Spain and confident in the justice of the great American people as a child trusts its father, remains unchanged in its purpose. [Applause.]

Are you not as Americans proud of that little colony, the

only true American colony, the only spot on earth beyond our boundaries in the wide world where our country is preferred above all others? [Renewed applause.] That steadfast body of men, pressed and menaced by the influence of so many empires and kingdoms, threatening them with the danger that would follow if they permitted the American flag to stay in their harbor, remained constant in their devotion to the colors they loved and the people they always trusted.

These same resolute men drove a worthless Queen from the throne when she attempted to overthrow the constitution and destroy the guarantees of property—the woman who, when she talked with Minister Willis of restoration, wished one condition, that she might behead the Americans. I have no apology to make for men sprung from our blood who have borne themselves with such enlightenment, courage, and energy as these men have done [applause], whose only fault is that they love our flag more than their own. They love the flag under which many of them once fought. Some of them fought under another, the bonnie blue flag, during our great war; but at heart brave Americans all, they have united there to sustain the cause of the United States in this war with Spain, animated by a love of American institutions and love of liberty. They are men who can not be intimidated or turned aside from their purpose, men who have successfully resisted every influence to bring them under the control of other foreign governments or any domestic tyranny.

I said we had only the question of interest to consider here to-day, whether it would be advantageous to us to annex. Have we not also a high question of national honor?

While we are demanding the observance of neutrality by other nations, we disregard it ourselves. We are compelled to it by military necessity. What is the honorable solution? Annex Hawaii and end it all.

The minority propose that we should guarantee the independence of the islands, which, of course, perpetuates their neutrality and continues us in a position that we cannot longer endure. The gentlemen would put our Government in the dishonorable position of declaring and guaranteeing Hawaiian independence as a neutral nation at the very moment when we are disregarding their neutrality and independence.

They can not remain as they are. The future is threatening. Sagacious statesmen have long foreseen it.

Mr. Willis was sent to these islands by Mr. Cleveland to demand the overthrow of the republican government. We all

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them out in their demand over the whole Japanese population, laborers and all. That population was being poured in at a tremendous pace, sometimes 1,000 a week, and they would have soon overwhelmed everything on the island by sheer numbers. The Hawaiian Republic made its utmost endeavors to struggle against this flood. They protested, they denied any such interpretation of a treaty which concerned not laborers, but merely traders, such as came on trading voyages in that old time.

They demanded that only those should land who had permits by the convention of 1886. They adopted a police restriction against paupers, such as all governments have a right to make. The police regulations required every one who came to have \$50. The immigration company in Japan was up to the exigency. They sent them still without permits and met the pauper restriction by a curious device. As the coolie left the vessel to go off, he was handed \$50, which he took in one hand, and after he passed the inspector he handed it back to the Japanese agent; and so they sought to evade the restriction.

The Hawaiian Government would not submit to such proceedings. They arrested those without permits or bona fide money and turned back over 1,100 of them. The Japanese Government were in dead earnest by this time. The game was in sight. If they could once get these men in sufficient numbers there with the voting power they would soon turn the whole government into a Japanese commonwealth, and then they would quickly end the reciprocity treaty with the United States and all our special rights to Pearl Harbor or anything else. Japan sent a ship of war, which might well alarm them, and a high official with it, who demanded that the permit should not be required, and that they should be free to come in as voluntary immigrants without stint; that Hawaii had no right to inquire into the bona fide character of the fifty-dollar transaction, and presented a great claim for indemnity to those turned back.

The little republic held out stoutly and asked for arbitration. Japan said, "We will arbitrate; we will soon let you know exactly what we will do"; and the next month they said they would arbitrate all questions between the two countries except as to the bona fide character of the fifty-dollar transaction and the permit for immigration, nor would they arbitrate the treaty-construction question. In short, they were willing to refer to arbitration everything except the questions to be arbitrated. The horizon looked dark for Hawaii.

But at this point the little republic made a treaty of annexation with the United States, and Japan learned that they could

recollect his dispatches. In one of them he mentioned that far the most threatening fact in the condition of the islands was the rapid growth of the Japanese element, and the purpose for which it was being sent there. There are over 24,000 Japanese on the island; 19,000 of them are men.

If they voted, it would be converted into a Japanese commonwealth immediately. This is not a light thing.

Over twelve years ago the planters, desirous of having other labor to diversify their Chinese and Portuguese labor, tried to have an additional supply from Japan. An arrangement was made, which was put into a convention in 1886, permitting the Japanese Immigration Company to send over Japanese laborers upon due authorization from the Hawaiian Government. These Japanese came at first in small numbers; but pretty soon they began to come faster, and the Japanese Government, which is directed by able statesmen, anxious to take advantage of all opportunities, made a demand that these Japanese subjects going there should have the same rights as the natives.

That startled the Hawaiian Government. The demand was ingeniously presented and energetically sustained. It might seem surprising that such a demand should be made. It was based upon an old treaty made by Japan in 1873 with one of the kings, which it was claimed granted to all Japanese forever the rights of the most favored nation. In truth, that treaty related only to traders and their privileges in the ports, and was so meant. It gave to Japanese liberty to come with ships and cargoes to ports where trade with other nations was permitted, where they might hire houses and warehouses and trade, enjoying the same privileges that were granted to other nations.

The sixth article provides that the treaty may be revised, on six months' notice, by mutual consent. As the Japanese did not purpose to give consent, by their way of doing business it would be perpetual.

However, the treaty did not amount to anything without finding a "favored nation." They found an old treaty, made way back in 1863, by one of the native kings with Spain, drawn apparently in very liberal terms, and meant to enable the traders to come and trade in the ports, which provided that they should "enjoy the same rights and privileges which are granted to natives."

So, by carrying over these privileges given to Spanish traders as such by a Kanaka king thirty-five years ago, and under which Spain had never thought of claiming the voting franchise, by distributing them to the Japanese traders in 1873 they spread

not discuss the matter further with them, because they had made a treaty of annexation with the United States, which, by its very nature, would extinguish all other treaties. Even that did not stop Japan, and she made an earnest protest to the United States against the treaty of annexation. Our Government answered promptly that Japan was not concerned in it; that we could deal only with the Hawaiian Republic, and refused to consider the protest, and this in such terms that Japan formally withdrew it. But she has not withdrawn these claims, she has not withdrawn the demand against the Hawaiian Government of the right to pour in Japanese without permit, or the right to demand for all Japanese any privileges or rights of the natives, which would include the right to vote and hold office.

Now, suppose we reject this offer of the Hawaiian Republic to join our country and become part of us. They are then left an independent government, with no hope of joining us, and become responsible for their own international relations and must answer to Japan. If Japan should succeed in her contention as to the old treaty rights her people will vote and soon change the administration of affairs there. They would elect their own officials and government in Hawaii.

They could at once attack the reciprocity treaty with the United States. By the terms of that treaty either party may terminate it on twelve months' notice. Pearl Harbor is therein granted to us; that is, we have a right to enter the harbor to improve it and use it as a coaling and naval station.

We have never done any of these things. The entrance has not ever been opened. I tried vainly to have an appropriation made by Congress over a year ago to have the harbor opened and improved and our flag raised, in order to strengthen our title by possession, so that when the question of our tenure should come up we might have that point in our favor—an important point in any contention which might arise under international law. But since we have done nothing the case stands thus: The Pearl Harbor grant to us in the reciprocity treaty was in a new article, Article II, added when the treaty was renewed in 1887. After that amendment had been put on in the Senate, and before exchange of ratifications of the renewed reciprocity treaty thus modified, there was an exchange of official notes between Minister Carter, of the Hawaiian Islands, and Mr. Bayard, Secretary of State of the United States.

Mr. Carter stated that they wanted it distinctly understood that in assenting to the Senate provision in a reciprocity treaty granting to the United States the use of Pearl Harbor as a coal-

ing station they did not propose any derogation of the sovereignty or jurisdiction of the Hawaiian Islands or any cession of territory whatever; that it was to be regarded as a privilege granted as compensation for the advantages they obtained by reciprocity, and that with the cessation of reciprocity the Pearl Harbor grant would cease.

JAMES A. TAWNEY [Minn.].—Is it not a fact that under that grant the Government of the United States obtains absolutely nothing except the use of the water—that we obtain no land at all for the purpose of utilizing the harbor as a coaling station?

MR. HITT.—As the honorable gentleman says, we get nothing but the use of the water in that grant.

The commercial value of the islands, the great interests that are to be promoted or are to languish, dependent upon our possession of the islands, which are the crossing place of almost all the lines of steamers in that sea, have been often discussed. We have a very large trade there, over \$18,000,000 annually of late years, and increasing. Not only do we admit their unrefined sugar free to our country, but, under the reciprocity treaty, they admit our products free of duty, and last year we sold to them \$6,800,000 worth of goods.

Of course, if the islands are diverted to other control—if that treaty terminates—we will rapidly lose their trade. At present they purchase from us three-fourths of all their imports. We have a great shipping trade there, American ships carrying nearly all the trade of the island. Honolulu is the only port in the world where American shipping is so greatly in the ascendant as to outnumber that of all other countries put together. Of the seven trans-Pacific steamship lines, six make Honolulu a way station. Shall we let it pass into rival or hostile control?

The population of the island, 109,000, is a mixed population. About half, or nearly half, are Asiatic—Chinese and Japanese. About twenty to twenty-five thousand are people of European or American origin—a good many Americans, a good many Germans, British, and a large number Portuguese and other nationalities. This Caucasian element is the strong intellectual and industrial force of the island. The Portuguese are people who have been there for some time. More than half of them were born on the island; were educated in the schools there, which are similar to the schools here, and those children speak English as an ordinary American child. After annexation the Asiatics would rapidly disappear in numbers under the operation of our laws and under the penal code of the islands, which would send back Chinese laborers very soon. The contract system would

MR. HITT.—This measure does not launch us upon any new policy. The importance of the question lies, first of all, in the necessity of possessing these islands for the defence of our Western shore, the protection and promotion of our commercial interests, and the welfare and security of our own country generally. Mr. Blaine stated it very well in a dispatch where he said the Panama Canal connecting our two shores, facilitating their defence and communication, was a purely American question, and that the possession of the Sandwich or Hawaiian Islands, giving them strategic control of the North Pacific, was one of purely American policy.

As to the further addition of a so-called inferior race to our population, with augmentation of our present political problems arising therefrom, I would say that the Hawaiian population is so small as to be inconsequential. It is not one seven-hundredth part of our population at home.

Something is said about the danger to our beet-sugar interests in this country from the competition of Hawaiian cane sugar after annexation coming in free of duty. There may well be some persons connected with the sugar-refining interest who are hostile to annexation; but the producers of beet sugar or unrefined sugar have nothing to apprehend. The total available natural cane lands in the islands do not amount to four townships of our land. They could not supply a tenth of what we consume. Besides, annexation will make no difference to the farmer here, as the raw or unrefined sugar of the Hawaiian Islands now comes in as free of duty under the Hawaiian reciprocity treaty as it would after annexation, and the only man who is affected is the refiner, who is protected now by the tariff against refined Hawaiian sugar. Refined sugar does not come in free under the treaty, and if annexation comes the refined sugar will come in free, and of course the refiners are hostile to it.

PATRICK HENRY [Miss.].—If we take these islands and annex them, have we to pay anything in the way of debts?

MR. HITT.—Well, they have assets and liabilities, the assets being twice as great as the liabilities. We take both when we take the government. There is a provision in the resolution that the debt shall not in any case exceed \$4,000,000. The assets of the islands are given in the statement of the financial officer showing that they are nearly twice that.

The consideration of this measure has been long deferred. There has been so much discussion throughout the country, such manifest impatience for its consideration here, that at last there

be terminated. The immigration from this country would no doubt increase.

In answer to an inquiry as to the prevalence of leprosy among the Hawaiians Mr. Hitt said:

There is little or no leprosy among them or any cleanly, highly civilized people anywhere.

I have seen little reason to believe that there would be any difficulty whatever in regard to any maladies save among those Asiatic elements and the Kanakas. There is leprosy, brought to the islands, it is said, by the Chinese. There is a vague impression, especially among Bible readers, who are very prevalent in this House [laughter], as to that word "leprosy" in descriptions of the islands, which is not correct as to the form of disease called leprosy as it exists in Hawaii, and which I have myself often seen in the Orient. It is not the loathsome, running disease mentioned so often in the Bible. It seems to be a paralysis and withering of the ears, fingers, etc., and they drop away painlessly. It is a malady that rarely affects people of the Caucasian race of the better class, who use an abundance of soap and water. It is not contagious in the ordinary sense. It is communicated only by long association and intercourse. The present vigorous, well-organized, well-arranged government of the islands has segregated it at Molokai. We, too, have had it in a sporadic way in our country for a long time and it is controlled. There is a leper colony in Louisiana and one in Canada. I will leave that question to experts.

In answer to an inquiry as to the number of American citizens in the islands Mr. Hitt said:

There are many people there of American origin, but they are Hawaiians, some of them sons and grandsons of men who went from the United States. But they are not American citizens, except partially, by a peculiar provision of their law, which allows men to retain a title to foreign citizenship. They are very strongly American at heart.

CHARLES K. WHEELER [Ky.].—There is one phase of the question that I think the House would hear with a great deal of interest, and that is the result and effect of annexation, not upon the commercial or military welfare of this country, but as a departure from the established customs of our country.

is a pretty clear perception by almost every one that the annexation resolution before us is in response and obedience to the demands of the whole country. Our votes in passing it will voice the earnest purpose of the American people; the conservative sentiment of the country is expressed by it, as a measure for the welfare, for the security and prosperity of the whole nation. Let us pass it and carry out the will of the American people. [Loud applause.]

MR. DINSMORE replied to Mr. Hitt. He said that the subject was of profound importance too great to be made a partisan one, as he feared this one would be made.

He confessed that before he had studied the question he had been in favor of annexation, but after his investigations he became firmly opposed to it.

I am opposed to it, in the first place, at this time, because I do not believe that we have any constitutional authority by the method proposed to us now to take them. Secondly, I think that, if we could do it lawfully, it is not desirable that we should do so for many reasons.

I do not believe that the ownership and possession of the Hawaiian Islands are essential to the United States, either as a permanent defence against war in time of peace or as a present war emergency. I frankly concede that their possession affords advantage—one advantage as against possession in the hands of a formidable hostile power—but that advantage is greatly exaggerated, and the evils that would result, in my judgment, outweigh this advantage. I do not believe that we have the power to take them to ourselves except as a State, and I do not believe that the people of these islands are suitable for citizenship of the United States. I am opposed to it because the people of Hawaii have not been consulted in the matter.

Annexation is but the first step that gentlemen ask us to take upon a policy which is strictly in conflict with every tradition of our Government and the prospect of its honorable success and prosperity. I noticed when I alluded to the Constitution there were smiles on some of the countenances of gentlemen in the House. I know it has become quite old-fashioned to talk about the Constitution. I know that in these degenerate days it is not considered up to date to talk about being governed and restrained by the Constitution of the United States.

It is not only the men at home who attempt by coöperation

with a foreign enemy to break down and destroy the Constitution that are distinguished as domestic enemies; they, too, are enemies who, for any cause, in any way, attempt to nullify and render inoperative the provisions of the Constitution.

For a century and more this Government has grown from its small beginning until it has become the greatest of states. I would have it continue so, Mr. Speaker, not by enlarging its territory, but by strengthening it in its internal affairs; by strengthening our institutions at home; by building up patriotism in the hearts of the people; by conserving the public interest; by promoting all industrial methods, and, above all, by strengthening our unity, restricting extension from our compact form, thus keeping every part of the country in touch and sympathy with every other. While we have refrained from interference with foreign nations, we have prospered under the direction of those wholesome admonitions, the sage advice of the wise and patriotic who built the ship of state. We have avoided entangling alliances with foreign nations, while we have maintained peace, commerce, and honest friendship, in the language of Mr. Jefferson, with all.

I regret to see any part of our people desiring to depart from the ancient traditional policy of our Government. We adopted the Monroe Doctrine. That doctrine declared not only that we would resent and oppose, if necessary, any interference on the American continent by foreign powers or the upbuilding of monarchical institutions here, but there was on our part an undertaking in good faith to refrain from interference with the affairs of foreign countries.

If we acquire Hawaii it is but the first step in the progress of colonial aggrandizement. We all know it. I hear it every day, not only from uninformed and impulsive people at the hotels and on the street, but from dignified, sober, reflective members of Congress. The press teems with it. "We are going on!" "We are not going to stop at Hawaii!" "We will take the Philippines and Puerto Rico and the Canaries, and establish ourselves upon every Spanish possession on the seas!"

Newspapers, assuming to speak for the President, tell us from twice to thrice a week that he is anxious to get complete possession of Puerto Rico and the Philippines before Spain capitulates—that no overtures for peace will be entertained until these islands are reduced to our possession. Think of it! And this war was inaugurated for humanity's sake, with a distinct disavowal of motives of conquest! Who speaks of the suffering reconcentrados now, though suffering tenfold more than when

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porting these resolutions say that at any time in the future it is expected to admit them to statehood? What is the population? This "gallant little republic" that the distinguished gentleman from Illinois, my colleague upon the committee, Mr. Hitt, referred to a while ago has 20 per cent. of white blood—European and American.

CHAMP CLARK [Mo.].—Let me suggest to my colleague that of that 20 per cent. 16 per cent. are Portuguese, from the Azores Islands.

MR. DINSMORE.—Forty-two per cent. of the population of the island are Mongolian, Chinese, and Japanese. Are you to take into full citizenship the Chinese whom your laws exclude from coming into this country? Are you going to confer upon them the immunities and privileges and sovereignty of American citizenship, when you say that they are not good enough even to come among us upon our own territory temporarily?

Nobody pretends any purpose to take the Hawaiian Islands into the Union as a State, but the purpose is simply and solely, so far as the contention goes, to acquire them for the purpose of assisting us in our military and commercial operations.

But they say that Texas furnishes a precedent. Texas never was annexed. They tried to annex it after the treaty failed, but Congress refused to annex. Resolutions somewhat akin to this were introduced in Congress, but Congress rejected them. What did they do? They passed a resolution of Congress looking to the introduction and admission of Texas into the Union as a State; when? After it had organized itself into a State, with a constitution republican in form, constructed by a convention of delegates selected by the people, and after that constitution had been submitted to and ratified by its people.

Now the consent of the people of Hawaii has never been received in any way. There is only the form of a dead treaty which was rejected or abandoned by the United States Senate after it was agreed to by the plenipotentiaries of the United States and the oligarchy in Hawaii, but which had not, and has never been, consented to by the people of the islands. It might as well be said, and far more justly, that a treaty signed by a plenipotentiary of the British Crown, ratified by a British Parliament, would impart the consent of the people of Canada to be annexed to the United States.

You must admit as a State. Such is the Constitution, and such is the precedent to which you refer.

Gentlemen say that Navassa was annexed; that all the guano islands were annexed. Are gentlemen familiar with the statute

the war began? The public mind is diseased with the fever of war, judgment is fled to brutish beasts, and men have lost their reason. American blood is to be spilled, American treasure wasted, for acquisition of territory which, if permanently acquired, threatens the sacrifice of peace, the happiness of our people, the very life of our Republic.

It is against this policy that I protest, because I believe it is inimical to the interests of this great country, that it portends disaster to us as a nation.

It is denied by some that the annexation of Hawaii is in conflict with our policy in the past. They say that we have annexed territory before. But what I want to call attention to is the fact that no territory has ever been acquired into the possession of the United States by the method proposed in this resolution.

Under the Constitution Congress has the right to admit new States into the Union. Let me read from the decision of the Supreme Court in 19 Howard, the celebrated Dred Scott decision, which treats directly of this subject. In delivering the opinion of the court the learned Chief Justice Taney said, among other things:

There is certainly no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure; nor to enlarge its territorial limits in any way except by the admission of new States. That power is plainly given; and if a new State is admitted it needs no further legislation by Congress, because the Constitution itself defines the relative powers and duties of the State and citizens of the State and the Federal Government. But no power is given to acquire territory to be held and governed permanently in that character.

In an "obiter dictum" in the same decision the learned chief justice says that:

The different departments of the government have recognized the right of the United States to acquire territory which, at the time, it is intended to admit as a new state into the Union.

Mr. Jefferson acquired Louisiana under this view, but by treaty confirmed by the Senate, and to become a State or several States.

Is that the question presented here? Is there anything in these resolutions of the majority proposing that Hawaii shall be admitted as a State into the Union? Would any gentleman have the temerity to stand up in this assembly and say that he would take it into the Union as a State? Do the committee re-

by which those islands were taken into our possession for a time? They were not annexed.

Congress, in 1856, passed an act which said that where a citizen of the United States discovered an island in the sea, an island, rock, or key containing guano, an island uninhabited and not under the sovereignty of any other power, that that island should be considered as "appertaining to" the United States. Did you ever know of that word "appertaining" being used by anybody in good conscience, by any lawyer in the writing of a deed of conveyance, by any State, corporation, or individual attempting to set up title to property? How careful they seem to have been to avoid such language as would confer, upon the part of the United States, any sovereignty or ownership on those islands.

They should "appertain" to the United States, but for what purpose? Permanently? The statute does not say so. For the purpose of enabling the citizens of the United States to procure guano, after having entered into bonds to the United States Government that he would sell that guano to no other person than United States citizens, and at a fixed price, and Congress specifically declares in the act that the United States shall not be considered as bound to retain possession of the islands.

So much for precedents. Now as to the necessity for possessing the Hawaiian Islands for the defence of the United States and our commerce.

I mention parenthetically the remarks of one gentleman who spoke of the necessity of having our guns on the Hawaiian Islands to protect our trade when the Nicaraguan Canal shall be built. It was ridiculed by my versatile friend from Mississippi [John Sharp Williams], who remarked, "What guns they would have to be."

There is a better way now to Manila, in the Philippines, than by Hawaii. It is over 800 miles nearer, and has, midway, an island with good harborage, a good coaling station, and coal already there provided, within the jurisdiction and control of the United States. Gentlemen seem startled by this statement.

Let me tell them that the route from San Francisco, by way of Kiska, in the Aleutian Islands, and by way of Unalaska, where there is already a coaling station, to Yokohama and Hongkong and to Manila is over 800 miles nearer, according to the official maps made by the accredited scientific authorities of the United States, than by way of Honolulu. There is a harbor there more than a mile and a half long and a mile wide, enough to float all the navies of the world. There is deep water with a good an-

chorage, several fathoms of water throughout its whole area, enough at all points and more for vessels of the deepest draft; and not only so, but in an island 25 miles long, and right upon the shore is fresh water in abundance. The temperature never falls below 7 degrees above zero.

Then what need for a coaling station at Honolulu? Mr. Speaker, there is absolutely nothing in the annexationist coal theory, but, if it is necessary, we have the exclusive privilege already by treaty with Hawaii. That treaty provides that no other nation but the United States shall have the privilege even of entering Pearl Harbor, and we are given the right to do all things necessary to make it an efficient coaling and repair station, to the exclusion of every other power, even Hawaii herself, and that carries with it the right to strengthen and fortify it, to make of it a naval station with the armament to defend it. What more do we want than this?

The gentleman from Illinois [Mr. Hitt] says this treaty, according to its terms, may be terminated by either party to the treaty. So it may. But who will abrogate the treaty? Will the Hawaiians? Never, if we avail ourselves of the rights granted, because the Hawaiians know they have more to expect from us than from any other nation. But, says the gentleman, some other power or people may get control of the government in Hawaii, and they would terminate the treaty. An event the anticipation of which there is nothing to justify. The mere assertion of our purpose not to allow any other power to control Hawaii has been sufficient to prevent it for fifty years, and the world respects our wishes more to-day than ever before. They have regarded them because hitherto we have in good faith refrained from interference with foreign territory, while insisting upon the enforcement of the Monroe Doctrine with reference to European control in our hemisphere. If we depart from our honorable course we need not wonder if Europe ignores our contention.

Do gentlemen reflect that when in the hands of a foreign power, if it controlled Hawaii, ships could not come from Honolulu and attack our Western coast, because when they got to the United States they would not dare engage us in battle unless they knew that they could overcome us, because, if they do, their coal supply is exhausted at once, and they cannot get away? They will be as helpless and inoffensive as painted ships upon a painted ocean. I do not admit the correctness of the theory that possession of Hawaii will render us able to do with less military and naval establishment than is necessary without

for so many years and enabled our people to build up their homes and to live happily with their families, to lie down at night restful and at their ease because no danger threatened, will be gone. She will desert us; and we shall never have a moment that we can confidently rely upon as a time of peace.

Mr. Speaker, it should be a matter of profound pride and gratification to every American to know that, in our compact form on this great continent, whenever the American heart throbs the blood goes bounding through the veins to every extremity of the great national body, as quickly and as responsively as the electric fluid flies from the touch of the operator's hand to the farthest end of the wire. And why so? Because we have not scattered possessions.

We are not a colonial nation; we have concentrated rather than diffused our power; we have a compact republican Government here, made strong by the union of States touching arm to arm; we have followed the policy laid down to us by our fathers and have avoided entangling alliances, and have respected and obeyed the Monroe Doctrine to such an extent that up to this good day, at least, not a nation in all the world has dared to plant her colors upon Hawaii and keep them there and call it her own.

Great Britain did it once. France did it once, but out of respect to the demands and wishes of America in the assertion of the Monroe Doctrine those colors were pulled down, and for more than fifty years the powers of the earth have respected our right there; and so long as we are decent and honest, and respect the principles and spirit of the Monroe Doctrine ourselves, they will continue to respect them. But, as Ex-Sen. Edmunds says practically, the moment we depart from it we may then begin to prepare for our defence.

Mr. Speaker, I hope that we shall be able to act in this matter as cool, deliberate, and patriotic statesmen. I hope that we may not yield to the feverish feelings of war which have taken possession of men's minds and hearts. Within the last two months we have seen men by the dozen, by the score, in this very body, change their opinion on this question.

The war fever has got into their blood, and they are about to do a foolish thing. It will be the greatest blunder in our national history. It is mere vanity, a desire to place ourselves alongside other nations who depend upon acquiring and holding territory abroad. We may take Manila; we may acquire Porto Rico; we may take the Canaries and set up our flag, our dominion, and our sovereignty. If we do, Mr. Speaker, we may expect to see

it. A navy will be indispensable for protection of a station there, and just as strong a naval force will be necessary for defence of our coast as if we owned the islands and a naval station there.

We must keep ships of war there, because if we do not the navies of the world can go there and batter down our forts and disable our guns, as Admiral Sampson has just been doing in Santiago de Cuba.

But, in addition to that, we must keep ships upon our own coast. If we were at war with Great Britain she would not have to cross the Pacific; she has naval stations on the westward American coast. But from the Asiatic side they can avoid Hawaii, go around it, and come to our coast exactly as for weeks and weeks in the Caribbean Sea Admiral Cervera eluded the two fleets that were looking after and chasing him every day in the great trackless waste of waters. Vessels must come in sight before they can be engaged in combat. So that after all as a strategic point the Hawaiian Islands are not of so much consequence as gentlemen contend.

Mr. Speaker, what is the necessity for our entering upon a policy of annexation? We are engaged in war. For what purpose was this war inaugurated? What was the motive assigned for our action at the time when we made the demands upon Spain to which she did not accede? The motive was humanitarian. We said: "We will not tolerate right here at our doors a condition which we consider barbarous and inhuman, even though it is not upon our own soil; no civilized nation would tolerate the cruel persecution going on at the instance of Spain in the island of Cuba; and it must stop."

We disavowed any intention of aggression on our part. We disavowed any purpose to make Cuba a part of our territory or to exercise any sovereignty over it. In view of such declarations is it good faith upon our part to inaugurate such a policy with reference to Puerto Rico and the Canaries and the Philippines? I say it is unworthy of respectable manhood, and what is not respectable for man is not decent for a nation. [Applause.] And, even if it were, I contend it is contrary to the welfare and interest of our country.

What must we expect if we enter upon a colonial policy? Suppose we set our feet upon territory in the Orient. From that moment we become involved in every European controversy with reference to aggressions and the acquirement of territory there. No longer will our ancient peace abide with us. That angel which has extended her beneficent wings over our heads

the disintegration of this giant Republic of ours, which nothing else, in my judgment, can accomplish. If you will take them, do it; but God help us! [Loud applause on the Democratic side.]

MR. CLARK.—Annexationists appear to labor under the delusion that in the twinkling of an eye any sort of a human being, no matter how ignorant, vicious, or degraded, can be made worthy of American citizenship by a simple act of Congress. Not so, however. Fitness for that exalted privilege can be obtained only by having the right sort of natural qualifications to build on and then by being educated for centuries in the hard school of experience.

Confidence is said to be a plant of slow growth. So is human liberty. It is marvelous to remember at what a snail's pace, with what painful steps, we have advanced to self-government.

Magna Charta, Trial by Jury, the Bill of Rights, the Petition of Right, the Long Parliament, the Commonwealth, the Revolution of 1688, the Right of the Writ of Habeas Corpus, the American Revolution, the Declaration of Independence, the old Articles of Confederation, the Constitution of the United States—these are only the luminous mileposts on the long, tedious, hazardous, and triumphal road by which we have traveled to the proud position which we occupy at this hour.

Our institutions have indeed been purchased with a very great price; and yet we are about to imperil them by entering upon a vainglorious policy of imperial aggrandizement, gorgeous in appearance, but surely fatal in its effect, or all history is a lie.

Why do we desire to expand our territory? It is too large already. From the beginning of things the most perplexing questions of legislation, of government, and of politics have grown out of our abnormal size. The largeness of our territory, our wide diversity of soil, climate, employment, and interest, have always been the stumbling blocks to perfect unity. On this rock—when our area was insignificant compared with what it is now—the constitutional convention of 1787, with George Washington at its head, came near going to pieces. These things caused the most titanic civil war that the world ever saw. These things divide us here now into warring factions, for, loath as we are to admit it, our political differences are in the main founded on issues purely sectional or local.

Vastness of area, wealth of resources, variety of climate, abundance of navigable waters, multitudes of population—these alone are not all the necessary constituent elements from which a great, free, and enduring government must be built.

Russia has all these galore, and yet she is the veriest despotism on which the sun looks down.

Ages ago Sir William Jones stated the question and gave the answer in immortal verse:

What constitutes a state?
Not high-raised battlement or labor'd mound,
Thick wall or moated gate;
Not cities proud with spires and turrets crown'd;
Not bays and broad-arm'd ports,
Where, laughing at the storm, rich navies ride;
Not starr'd and spangled courts,
Where low-brow'd baseness wafts perfume to pride
No! Men—high-minded men—
With pow'rs as far above dull brutes endued
In forest, brake, or den,
As beasts excel cold rocks and brambles rude;
Men who their duties know,
But know their rights, and, knowing, dare maintain;
Prevent the long-aim'd blow
And crush the tyrant while they rend the chain.
These constitute a state;
And sovereign law, that state's collected will,
O'er thrones and globes elate,
Sits empress, crowning good, repressing ill.

What shall it profit us, even temporarily, to do this thing? The annexationists draw a picture of these islands in rosy hues, and tell a dullest story of the free homesteads awaiting us in that tropical region. We are to get the crown lands in return for this four millions we are now appropriating and for the other countless millions which we will expend in the future. As a matter of fact, the crown lands are absolutely worthless. Rest assured that the sugar barons have already secured titles to every foot of land of any value. The free homesteads to be carved out of the crown lands are a fake, pure and simple. All the crown lands which will ever be opened to homestead entry are too dry to till without irrigation and so high up in the air that irrigation is impossible.

Even if there are valuable crown lands which have never been broken to the plow and fertilized by water, they are not for our children and other white people of our breed, for the all-sufficient reason that they cannot endure outdoor work in that sultry climate. More farming lands there simply mean more Chinese cheap labor, more Chinese contract labor, more Chinese and Japanese slave labor, brought into our country to compete with our free white labor. Such an outrageous and iniquitous

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in the public press after it was edited carefully by some expert annexationist. By one of those curious coincidences that sometimes appear in human affairs the only portion of the general's evidence that was of any consequence or which could throw any light on the subject was eliminated from the press report. It was this, that on the entire coast of the Sandwich Islands there is but one harbor valuable for military or naval purposes or susceptible of being fortified. That is Pearl Harbor, and we already have that. What does this prove? It knocks the bottom clear out of the annexation scheme; it demonstrates that we do not need Hawaii even for strategic purposes, for, having Pearl Harbor, we possess all that portion of the islands that we need for strategic, military, or naval purposes without polluting and weakening our system of government by taking to our bosom a horde of Asiatic savages. Why, then, run the awful risk of beginning a policy of imperial aggrandizement and territorial expansion of which no prophet, not even General Grosvenor, can see the end or foretell the evil?

What is our patriotic duty, then? It is to hold Pearl Harbor and fortify it to the utmost. That removes all the dangers to our institutions. I am willing to vote every dollar necessary for that great work; and the fact that gentlemen will not accept that solution of the question is proof positive that their intention is to make the annexation of these islands the beginning of a general and extensive policy of territorial expansion.

And I warn gentlemen who solemnly aver that they are opposed to the policy of imperial aggrandizement, and yet who advocate this senseless scheme, that when some party in the days to come shall openly declare the whole program they will be estopped by this week's work from objecting. Now is the accepted time for killing this thing. This is the day of salvation.

We are told that we must have an island or we must perish. The jingoes here are as much fascinated by the prospect of having an island as was Sancho Panza. [Laughter.] It was his vision by day and his dream by night, and it brought him nothing but misfortune and unrest. Why this sudden and urgent necessity for an island?

It is said that we need it in case of foreign war, especially in case of a war with a great naval power. Is that true or not? Will we never learn anything from experience? How stands the record? We have waged three foreign wars, and come off victors in every one of them, without an island. In two of them we defeated England, the greatest sea power of the world, without an island to our name—once when we were only 3,000,000 strong,

performance is forbidden by good morals, as well as by an exalted love of country.

But the annexationists have their plan like the nigger's con trap, "set to catch 'em gwine and comin'."

They at first gave it out that the reason we needed the islands was that we could then grow for ourselves all the sugar we wanted, representing that the cane-sugar industry out there was only in its infancy, and could be increased *ad libitum*. That statement so alarmed the sugar-beet enthusiasts that they howled so loud that the annexationists hauled in their horns on the sugar question and declared that they had been mistaken about that, and that what we really needed the islands for was to raise our own coffee, so that neither Spain nor any other nation could prevent us from having an abundance of that delightful tippie.

Within the last few days the nimble advocates of annexation have abandoned both sugar and coffee as reasons and have found a brand new one—Commodore Dewey's splendid victory at Manila! Since he performed that immortal deed without our owning these islands they say that it is absolutely necessary for us to buy them in order that we may send reinforcements to him. Suppose Dewey had lost that battle; what then? Do you not know that the annexationists would have been yelling at the top of their voices that we need these islands because of his defeat?

Now, if his great victory proves anything at all about these islands it is that we have no earthly use for them, for he could not have done any better if we had owned all the islands in all the seas. [Applause.]

We are told that we need these islands as a strategic base in military operations. All the admirals, rear-admirals, commodores, generals, colonels, majors, and captains say so. How does it happen, then, that we have gotten along splendidly for one hundred and nine years without these volcanic rocks? If we did not need them when we were only three millions strong, why are we likely to perish for want of them now that we are 75,000,000 souls? Have we grown weaker as we have multiplied in population? Certainly no jingo will have the hardihood to maintain a proposition so preposterous. And yet that is precisely the conclusion to which their logic inevitably leads—which is the *reductio ad absurdum*.

But we had before the Committee on Foreign Affairs certain illustrious witnesses to testify in favor of annexation, to enlighten the beclouded intellects of the minority, and to convert us from plain patriotism to wild jingoism. Among others was Lieut.-Gen. John M. Schofield. Part of his evidence appeared

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and again when we could muster only 12,000,000 men, women, and children, counting the slaves. The strangest part of this glorious history is that the ocean was the very place where we thrashed England the most soundly—without an island. Indeed, had it not been for our victories upon the water, and for that matchless achievement of the Iron Soldier of the Hermitage at Chalmette, we would not have been in strictly prime condition for crowing over the war of 1812.

I have a question which I wish to ask the mathematical jingo solely for information. If, with a handful of raw militia, Andrew Jackson in one hour killed 2,600 English soldiers—the picked veterans of the Peninsula—with a loss of only 7 killed and 8 wounded, without an island, what in heaven's name would he have done to them if he had only had an island? [Laughter and applause.]

There are four Territories which we Southwesterners are anxious to bring within the sisterhood of States—Arizona, New Mexico, Oklahoma, and Indianola. They are kept out now most unjustly because they are liable to vote the Democratic ticket and cocksure to vote for the free and unlimited coinage of gold and silver at the ratio of 16 to 1.

For fifty years New Mexico has been knocking at the doors of Congress, asking for Statehood, and she is still cooling her heels on the outside, notwithstanding the fact that she possesses all the constitutional qualifications, having a population greater than that of Nevada, Idaho, Montana, Utah, or Delaware.

What shall we think of the consistency of people who denounce these young mountain commonwealths as sage brush and rotten borough States, unfit to touch the immaculate skirts of prim, precise Massachusetts or to kiss the hem of the gorgeous garments of her imperial highness New York, and in the same breath propose to admit Hawaii, which is removed by 2,500 miles of ocean from our borders, and whose mongrel population consists of Hawaiians (pure and mixed), 39,504; Japanese, 25,407; Chinese, 21,616; Portuguese, 15,291; British, 2,250; Germans, 1,432; Americans, 3,080, including the largest and most repulsive collection of lepers beneath the sun?

O judgment! thou art fled to brutish beasts,
And men have lost their reason!

[Applause.]

Why is this monstrous proposition made? Let us be plain and state the truth though it shame the devil. This crime against free government is to be committed for three reasons:

1. Because some \$5,000,000 of Hawaiian bonds have been sold in this country at about 30 cents on the dollar. We are asked to guarantee the payment of four millions of these bonds. The moment we annex the islands those bonds will soar to par and certain favored patriots possessed of inside information will reap a profit of 70 cents for every 30 cents invested, making a total of three and one-half millions—a very comfortable nest egg to have in the family.

2. There is a pressing necessity for two rotten borough Senators to eke out the single gold-standard majority at the other end of the Capitol.

3. But, above all, William McKinley will have sore need for the three electoral votes of Hawaii in the melancholy days of November in 1900, when he again faces at the polls the great tribune of the people, William Jennings Bryan, of Nebraska. [Applause.]

For these base and forbidden ends we are asked to do an act which will jeopardize the American Republic.

How can we justify either to ourselves or to our posterity the act we are about to commit? How can we endure our shame when a Chinese Senator from Hawaii, with his pigtail hanging down his back, with his pagan joss in his hand, shall rise from his curule chair and in pigeon English proceed to chop logic with George Frisbie Hoar or Henry Cabot Lodge? *O tempora! O mores!* [Laughter and applause.]

For more than a quarter of a century a persistent fight has been waged by the denizens of the Pacific Slope against the sublimated humanitarianism of the East to exclude Chinese immigrants from our shores. We supposed that we had finally settled the difficulty; but we are now coolly invited to stultify ourselves and undo the labor of many years by an act which will in one moment admit more Chinese into this country than the Chinese Six Companies of San Francisco would have imported in fifty years.

I press these questions home upon your minds and consciences: Are we ready to admit Chinese to citizenship? Are we willing that they shall have a voice in our affairs? Do we propose deliberately and absolutely without provocation to take that reckless leap into the dark? Do not a great many people believe that we have already gone too far in the attempt to assimilate all the peoples of the earth? Is not this question constantly asked: Is the American Republic endowed with the stomach of an ostrich that there is no limit to its digestive powers? Is there not a large, insistent, and growing sentiment in

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drink. The way to cultivate "peace, commerce, and honest friendship with all nations," which Jefferson enjoined upon us, and to have "entangling alliances with none," which was part of his creed, and also of Washington's, is to decline this glittering Hawaiian bauble.

All history proves that the passion for acquiring territory grows with what it feeds on.

The moment we go beyond low-water mark our feet take hold of national death. There is no limit to our foreign acquisitions except our own wisdom and our own moderation, for we are now strong enough to work our will among the nations of the earth.

The entire Western Hemisphere and all the islands of the adjacent seas are ours, if we desire to possess them. No human power can stay our arms. Had we been animated by the spirit of universal conquest the scream of our eagles would long since have resounded amid the Andes and the Cordilleras.

When Robert Lord Clive was impeached for plundering the East Indians of a princely fortune, while admitting that he had appropriated vast sums to his own uses, he exclaimed in a fine burst of indignation: "By God, at this moment I am astonished at my own moderation!"

All land grabbers, big and little, have heretofore been astonished at our moderation, but it has been our strength, our glory, our salvation.

And are we now to reverse the policy of a century—that policy which has made us the wonder of the world?

We are invited to take the first step in that primrose path of dalliance which leads to the eternal bonfire. And where will we stop?

No reason can be urged for annexing the Sandwich Islands which will not apply with equal force to the annexation of something else and everything else.

"The Pearl of the Pacific" is the beginning of the end. Then "the Gem of the Antilles," for, if we need an island in the Pacific, why not one also in the Atlantic?

Indeed that preëminent twister of the British lion's caudal appendage, Senator Henry Cabot Lodge, of Nahant [laughter], is not to be satisfied with the one island of Cuba in the West Indies, so he has introduced a bill to purchase the islands of St. Thomas, St. Croix, and St. John; and many here are talking of annexing Puerto Rico, the Philippines, the Canaries, and the Caroline Islands.

The jingo bacillus is indefatigable in its work. Every day or

this country in favor of restricting even white immigration to the able-bodied, the virtuous, the intelligent?

But we will be told that it will be made unlawful for Hawaiian Chinese to come to America. Believe them not. It cannot be done. The American Congress on a historic occasion by a superhuman effort solemnly enacted that it could not be done. I plant myself on the doctrine of *stare decisis* and declare that we must not violate the precedents of nearly a hundred years. The pioneer Missouri State makers, though in their honored graves, are avenged at last. They placed a clause in their first constitution prohibiting free persons of color from coming from other States and settling in that imperial Commonwealth. Secession was loudly threatened by the Northern contingent in Congress if that clause were not eliminated. For two years Missouri was kept out, and finally, as a condition precedent to her entrance into the Union, Congress required that her legislature should by solemn ordinance declare that that clause should forever remain a dead letter, and it was so ordained.

Now, after seventy-seven years, in order to smuggle in a few volcanic rocks in mid ocean, and to endow the variegated inhabitants thereof with the invaluable privileges and immunities of American citizens—in order to protect them with the old flag and to gladden their hearts with a four-million appropriation—this Congress proposes to do the identical thing which it declared it an unpardonable sin for Missouri to do. Missouri did not exclude free persons of color. Neither can Congress keep out the Hawaiian Celestials.

Annexionists with one accord will pooh-poo the idea of danger to the Republic, and will solemnly asseverate that the acquisition of Hawaii does not presage further territorial expansion.

Believe them not, Mr. Speaker. Put not your faith in jingoism. Study that strange and intricate machine, the human heart. Consider the unconquerable Anglo-Saxon lust for land. Revolve in your mind whether greed has ever yet set limits to its possessions.

Review the whole history of the human race and tell us how many rulers have ever willingly alienated one foot of land over which they exercised dominion.

There is only one, and he shines forth a bright particular star among the sovereigns of the earth—the Emperor Adrian, who voluntarily relinquished vast territories, thereby setting bounds to the empire and preserving its life for centuries.

The way to remain sober is resolutely to refuse the first

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two some prophetic jingo, in the endeavor to excel all his tribe, proposes to annex the five seething, bubbling, eruptive Central American Republics. Jingoism appears to be more contagious than the measles, the smallpox, or the black plague, and let us fervently pray that it will not also prove more fatal. [Applause.]

That eminent publicist, orator, and author, Henry Watterston, has capped the climax of jingoism by proposing to annex Ireland. Somebody else asked "Marse Henry" why we should squander time and money annexing Ireland when we have already annexed the vast majority of the Irish?

One of my Missouri friends—a preacher in my church at that—

JOSEPH H. WALKER [Mass.].—What church is that?

MR. CLARK.—The Christian Church, vulgarly called the Campbellite.

HENRY U. JOHNSON [Ind.].—The fact that you are in communication with a preacher shows that antiannexionists are not outside the pale of salvation.

MR. CLARK (continuing).—wrote me last week to immortalize myself by proposing in this House to partition Spain, giving the largest slices to France and Portugal, with a piece around Gibraltar to England big enough to keep the British lion from roaring. You jingoes here are mere babes and sucklings beside my reverend brother from Missouri. You need to be fed on strong meat in huge chunks for a long time to bring you up to his exalted standard.

This whole annexation scheme reminds me of a game of cards, about which I know nothing [laughter], but of which I have heard a great deal, called draw poker—which has been solemnly adjudicated by a Nevada court to be a scientific performance and not a game of chance as popularly considered [laughter]—in which one of the most prominent features is "raising" your opponents until you "raise" them clear out of the game. Every jingo appears to be determined to "raise" all others in this bad and desperate game.

If we annex Hawaii and you, Mr. Speaker [Thomas B. Reed], should preside here twenty years hence, it may be that you will have a polyglot House, and it will be your painful duty to recognize "the gentleman from Patagonia," "the gentleman from Cuba," "the gentleman from Santo Domingo," "the gentleman from Corea," "the gentleman from Hongkong," "the gentleman from Fiji," "the gentleman from Greenland," or, with fear and trembling, "the gentleman from the Cannibal

Islands," who will gaze upon you with watering mouth and gleaming teeth. [Great laughter and applause.]

In that stupendous day there will be a new officer within these historic walls, whose title will be "interpreter to the Speaker," for your ears will be assailed by speech in as many



TROUBLES WHICH MAY FOLLOW AN IMPERIAL POLICY
From "Cartoons of our War with Spain," by Ch. Nolan

discordant voices as were heard at the confusion of tongues on the plain of Shinar at the foot of the unfinished Tower of Babel. [Applause.]

Let it not be forgotten that we went into this Spanish war on a solemn resolution, passed by both Houses of Congress and signed by the President, that we are not waging it for purposes of imperial aggrandizement or territorial expansion, but solely for love of humanity. It is not putting it too strong to say that that resolution raised us immeasurably in the eyes of all civilized nations, placed us on an unequaled pinnacle of glory, and made us many valuable friends in Europe.

Now, within six weeks of the passage of that lofty resolution, we are beginning to do precisely the reverse, putting ourselves

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here in Washington—a system utterly un-American in its character and contradictory of our entire theory of government?

We hear a vast deal of ecstatic talk about these leprous islands "falling into our laps," as if that were a reason for annexation. Are we such Simple Simons as to accept everything offered us? Because a hog with the cholera, or a sheep with the rot, or a horse with the glanders, or a dog with the rabies is given to us, by the same token we should annex him to our animal possessions and infect the whole lot with a loathsome and incurable disease.

We are to take them because, forsooth, they are given to us! That is the main argument for annexation, but even that is not the truth. Far from it. By these very resolutions we pay four millions for a starter. How many millions will finally go the same road Omiscience alone can tell. We are paying down cash on Mr. Dole's counter for these volcanic rocks nearly one-third as much as Thomas Jefferson paid for "the Louisiana Purchase."

No; it is not given to us. And if it were I would still say with the ancient poet, "*Timeo Danaos et dona ferentes*"—Beware of the Greeks bearing gifts.

For whose benefit and behoof are we to do this preposterous thing? Not for ourselves or our children, surely; for Hawaii has a tropical climate, beneath whose burning, blistering sun no Anglo-American can work outdoors.

Why not learn something from the great historic and scientific fact—for fact it is, though it may be amazing—that Teutonic civilization and representative government are coextensive with the wheat belt? They are exotics in the Tropics, and will wither and perish there.

Who is back of this annexation scheme? Who has worked up a sentiment in its favor? Who has maintained a lobby here to labor for its success? Who has enlisted a portion of the public press, and caused it to question the patriotism and cast insinuations against the integrity of the men who have the courage, the wisdom, and the patriotism to fight this colossal job?

I was long since taught that it is a sound practice when trying to fix responsibility for a crime to search for the person or persons who would reap the greatest profit from its commission.

Applying that rule of common sense to this case, to what conclusion are we irresistibly led? To this: That the sugar kings of the Sandwich Islands are the chief promoters of the scheme, because they are easily the chief beneficiaries. Even the holders of Hawaiian bonds are not in it with them, because all the bonds

in position to be charged with acting with Punic faith and dragging our country down from the high pedestal on which we placed her, thereby reducing her to the low and common level of the land-grabbers of the Old World.

Some of the other inevitable evils of annexation are an increase in our standing army; an increase in our navy; a vast increase in our taxes. Unless the American people have made up their minds deliberately to do those three things we have no right to saddle such a load upon their backs—a load which will go on augmenting year by year so long as the world shall stand. Most assuredly I refuse to be a party to such an outrage upon those who, in the last analysis, must foot the bills.

Mr. Clark then discussed what the status of Hawaii would be after annexation. It had been proposed, he said, to make it a county of California, but to this that State had strenuously objected.

If we annex the islands we must govern them some way. If not as a State, or a county of California, then what? Do we propose to resolve this day that we will hold the people of these islands in perpetual tutelage as a territory, by which term we have hitherto meant a State in embryo?

A perpetual chrysalis existence as a territory is repugnant to the genius of our institutions and out of harmony with our entire history. Home rule has been our policy from the beginning, and the chief boast of the younger Harrison's administration was that it relieved the people of six territories from the reproach and annoyances of territorial leading strings and conferred upon them the glory and dignity of statehood.

Again, I submit that these people are not fit to vote in territorial elections if they are unfit to vote in State elections, which they clearly are, even according to the standard of President Dole's little oligarchy; otherwise he would not have so revised the voting lists as to confine the suffrage to 2,800 persons out of a total population of 109,000 souls—that is to say, about one-seventh as many people are allowed to vote now as were permitted to vote under the monarchy.

If, however, these people are fit for neither a State nor a county, nor a territory, what form of government shall we give them? Crown colonies like the English? Or shall we send American proconsuls to plunder these unfortunate people as the Roman proconsuls plundered the ancient world or set up a system of satrapies to be controlled by the central Government

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ever issued by the Dole Government are not equal to the profits which the sugar kings will make out of annexation in each and every year henceforth and forever so long as they shall live, because annexation will make raw Hawaiian sugar come in free, and the sugar kings will pocket the tariff on the same, which amounts under the blessed Dingley bill to millions of dollars annually, and will grow as the Hawaiian sugar output increases, and is really a gift from us, which already exceeds \$65,000,000.

But it will be answered that reciprocity already lets Hawaiian sugar in free, and therefore the kings have, and can have, no interest in annexation. Do not believe that for one moment, Mr. Speaker. The reciprocity treaty is a tiptop thing for the kings, but it is only temporary in its nature, and annexation would be a permanent blessing to them. I do not know much about stocks; I have had no experience with the ticker; but, mark my prediction, the moment annexation is an assured fact sugar stocks will soar skyward—a direction in which their owners will never go. To this low estate have we fallen at last that the sugar kings of the Sandwich Islands force us from the safe, wise, honorable policy of one hundred and nine years into a new, dubious, and untried policy which endangers our prosperity and is a menace to our very existence.

I would not be understood as asserting that members in advocating annexation are consciously influenced by the sugar kings or are in any manner corrupted by them. I am perfectly willing to admit that their motives are absolutely pure. Nevertheless, I believe that the sentiment in favor of annexation now, in the day of William McKinley, under the impulse of which members are rushing upon ills they know not of, is largely the work of the sugar kings, just as the sentiment favorable to annexation in the days of William L. Marcy was distinctively the creation of the propagandists of African slavery. As annexation was resisted and defeated by lovers of human freedom then, so it ought to be resisted and defeated by lovers of human freedom now.

To the Republicans who are shouting for annexation I commend the fine Shakespearean dictum, "Consistency, thou art a jewel."

The Republican party claims now—since emancipation has become popular and since the vote of our "Brother in Black" controls the elections in several close States—that it waged for four years a costly and bloody war to extirpate African slavery from this country. In 1861 the claim was that that awful war was for the preservation of the Union.

But if the Civil War was carried on to free the negroes, as is now claimed, how can Republicans justify themselves either in the forum of conscience or at the bar of public opinion for annexing the Sandwich Islands, thereby again grafting slavery onto the Republic? No man who has any reputation for veracity will jeopardize it by denying that coolie slavery does exist in the Sandwich Islands to-day as thoroughly as African slavery ever did exist in South Carolina or in Massachusetts up to the time when it was found to be unprofitable on that stern and rockbound coast. [Applause.] Furthermore, men of intelligence know that Chinese slavery is more brutal and more immoral than was African slavery in its worst estate, even in Massachusetts. It is a matter of common knowledge that Chinese men are sold into slavery, and that Chinese women are sold into and especially prepared by cruel surgical operations and physical mutilations for a species of slavery ten times worse than death itself.

Perhaps it may quicken the consciences, open the eyes, and dampen the ardor of certain jingoes here to know that organized labor is against this annexation scheme. This element, which justly looks to its own interests, and which is more and more every year finding ways to make its influence felt, opposes this Hawaiian job under the impulse of self-preservation, which has been wisely defined as "the first law of nature." The labor organizations of California, being nearest the scene, being at the point of earliest contact, and being the first who would suffer from competition with coolie slave labor, were very properly the first to sound the alarm. They were soon reinforced by an earnest protest from the American Federation of Labor, which demonstrates that workmen throughout the land sympathize with their imperiled brethren on the Pacific Slope.

The Federation places its strong resolution against annexation on the ground that it "would be tantamount to the admission of a slave State, the representatives of which would necessarily work and vote for the enslavement of labor in general."

The corner-stone of this Republic is the proposition enunciated by Thomas Jefferson, the chief priest, apostle, and prophet of constitutional liberty—"Governments derive their just powers from the consent of the governed."

If that proposition is not true, then the American Revolution was a monstrous crime; Washington, Warren, Montgomery, Greene, Marion, and all that band of heroes were turbulent traitors to King George III; and all the blood shed in our two wars with Great Britain was wanton and wicked waste.

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interfering with our affairs—yes, always, till now, and even now make an exception only in favor of the Hawaiian plotters!

Did not Washington drive the impudent, meddling Genet, minister of the French Republic, out of the country at the risk of a war with France when we were a feeble folk?

Did not Mr. Secretary of State Daniel Webster's dark brow grow darker when he thought of the brave Kossuth haranguing our people on our affairs?

Did not our Government demand the recall of Minister Sackville-West for his impudent letter touching a presidential election? And did not his government, recognizing the justice of the demand, instantly recall him?

Was not the foolish and insulting letter of Minister Dupuy de Lôme about President McKinley and our people one of the things that irritated our people into demanding this war?

Why have not Thurston, Hatch, Dole, and all the rest been sent about their business and given plainly to understand that we need no instruction from them as to our duty or our interests? Surely this is an amazing performance.

We hear much of "manifest destiny." That is a charming phrase. It tickles the ears of men; it panders to human vanity; it feeds the lurid flames of our ambition; it whets the sword of conquest; it is an anodyne for the troubled conscience, but it lureth to destruction. At the last it biteth like a serpent and stingeth like an adder. It is, however, no new doctrine. It is as old as the hills, "rock-ribbed and ancient as the sun." Years and years ago, stripped of all disguises and adornments, it was formulated by that eminent annexationist, Rob Roy, in this plain, blunt language:

The good old rule, the simple plan,
That they should take who have the power,
And they should keep who can.

Moses placed his veto on this convenient theory of "manifest destiny" when with inspired pen on tables of stone he wrote this stern command: "Thou shalt not covet thy neighbor's lands."

"Manifest destiny" has been the specious plea of every robber and freebooter since the world began, and will continue to be until the elements shall melt with fervent heat.

It was "manifest destiny" which led Lot to overreach his uncle Abraham in selecting the rich lands of the valley, and you remember the weird story of Sodom and Gomorrah.

"Manifest destiny" led Philip's invincible son across the sea,

This annexation scheme is in flagrant violation of that basic principle of our Republic, for many thousand Hawaiians—more than the entire male adult population—have solemnly protested against the sale and delivery of their country to us by a little gang of adventurers who, claiming to be the whole thing, are offering to us a property of which they have robbed the rightful owners. And now America, which has been solemnly declared by the Supreme Court to be a Christian land, is to be made the receiver of these stolen Hawaiian goods.

But the jingoes tell us that this protest of the Hawaiians is all bogus, gotten up by designing knaves, and that the Hawaiians are falling over each other in their eagerness for annexation. If this is true, why not submit this annexation scheme to a popular vote in Hawaii, as was done in the case of Texas?

If a fair election on that proposition cannot be had, what assurance have we that fair elections can be had hereafter, if we annex these islands? If the Hawaiians are not fit to vote on a proposition of vital interest to themselves who will have the effrontery to say that they are fit to vote for all coming time on propositions of vital interest to us and to our posterity?

The propaganda which has been carried on openly in this city for the last five or six years by the agents of the Hawaiian sugar kings in favor of annexation is a disgrace to this Government and has lowered us in the eyes of ourselves and the rest of the world. It has no parallel in all history. Minister Hatch has lobbied for it. Ex-Minister Thurston has lobbied for it, and has written and sent a book in favor of it broadcast over the land, which book the Senate Committee on Foreign Affairs made a part of its report. Other lesser personages have lobbied for it. These not succeeding, at last appeared President Sanford B. Dole, in all his bewhiskered glory.

What other government on earth would permit the agents of a foreign government to come into its very capital and openly interfere with its affairs? Suppose, when the arbitration treaty with England was pending in the Senate, Queen Victoria had come to Washington to lobby for its ratification. Such a howl would have gone up as would have startled the man in the moon, and it would have been a howl of righteous indignation. If Sanford B. Dole was not here to influence public opinion and the action of Congress, what was he here for? And why make his visit in January, at the precise time that his precious treaty of annexation was being debated in the secret sessions of the Senate and was a few votes short of the necessary two-thirds majority?

Have we not always been extremely jealous of foreign officials

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across the Granicus, even to farthest Ind, to build up an immense empire, which crumbled to pieces at his death.

"Manifest destiny" sent the Roman emperors to the burning sands of Africa, to the impenetrable forests of Gaul, to the inhospitable mountains of Asia, to the bottomless bogs of England, and at last put up the imperial crown for sale at auction to the highest bidder.

"Manifest destiny" caused Bajazet to desolate the fairest portions of Asia, and he ended by being hauled around in an iron cage as a ravening wild beast, which he was.

"Manifest destiny" impelled Mad Charles of Sweden to put all northern Europe to the sword until he met his Nemesis in Peter the Great at Pultowa.

"Manifest destiny" was Napoleon's gauzy justification for all the bones bleaching from Toulon to Mount St. Jean. He was always prating about his star; but it disappeared forever in the sunken road of Ohain, and he wandered from the stricken field "the immense somnambulist of a shattered dream."

"Manifest destiny" makes England the great bully of the world, oppressing the weak, toadying to the strong, laying up wrath against that day of wrath, that *dies iræ*, which is as sure to come for her as that a just God reigns on high.

Oh, yes! "Manifest destiny" is a seductive thing. It is the beautiful, the irresistible, the wicked Circe beckoning us on to our undoing. The entire pathway of man since the day when Adam was driven from Eden with flaming swords is black with the wrecks of nations who harkened to the siren song of "manifest destiny," and the epitaph upon whose tombstones is: "They were, but they are not."

Hitherto we have been the favorites of heaven; but let us not tempt fate too far or destiny will grow weary of partnership with us and dissolve it as she did with Napoleon at Waterloo.

Hawaii is the fly which will make our whole pot of ointment stink in the nostrils of the civilized world.

Let us put away this supreme temptation from before our faces, and generations yet unborn will bless us for this act of wisdom, self-abnegation, and patriotism.

Nature has set bounds to this magnificent Republic beyond which she should not go—the Atlantic on the east, the Gulf of Mexico and the Rio Grande on the south, the Pacific on the west, and in the fullness of time, without the expenditure of a dollar or the spilling of one drop of blood or the shedding of a single tear, the frozen ocean on the north.

Within those wide, extended limits we will live and grow

and flourish, the happiest, the richest, the most puissant, the most intelligent, the securest people on the whole face of the earth.

But depart from the plan of justice, of wisdom, and of moderation, go chasing the *ignis fatuus* of "manifest destiny" over land and over sea, and some day Macaulay's artistic New Zealander, after finishing his picture of the ruins of St. Paul's, will sit on a broken arch of "the Long Bridge" and sketch the ruins of this Capitol. Before you consummate this monstrous folly I say to you, in the language of Galgacus to the ancient Britons, "Think of your forefathers; think of your posterity!" [Prolonged applause.]

MR. WALKER.—Mr. Speaker, I hope I shall be able to relieve the House from any effects which may have been produced by the lamentations of its Jeremiah. [Laughter.] In the discussion and decision of this question there is not the first element or purpose of territorial expansion. We enter upon the discussion and decision of this question of accepting Hawaii in precisely the same manner and upon the same principles that we would enter upon the discussion of the question of building a ship of our navy. It is within as narrow limits as that question. It is clearly a question of our national defence, our national duty, our national existence, in the position in which the great Former of the destiny of nations has placed us.

I have struggled against this decision. I have been opposed to the annexation of Hawaii until I heard the shot of the guns of Dewey at Manila; and then I awakened to the importance of this question to the great destiny, as I believe, of this nation. No man has a moral right in his power and strength in any community to shut himself up within his own selfish interest and advantage and there live, seeking what he may for himself and forgetting those about him. Nor has any nation such a right. It has no right to cut itself off from all the moral obligations that rest upon it to secure righteousness and maintain peace in the great community of nations.

I do not make any claim that it is our duty to right the wrongs of every people and of every nation under all circumstances, but I do say that it is the duty of this nation to take its proper place among the nations of the world, and that we stand verily guilty before God if we do not do our full duty in maintaining peace in the world. We are seeking Hawaii for peace.

The roots of all moral courage rest in physical courage. The power of moral courage, in the last analysis, rests in the physical courage of the man or the nation, and the certainty that moral

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hemisphere. Our sympathies are all with the people, with free institutions; they are all against monarchies, and with governments deriving their just powers from the consent of the governed. The day is not far distant when a monarchical flag will not wave over an inch of territory on the Western Hemisphere or on the islands adjacent thereto. Jefferson's dream is coming true when this Western World, from Baffin's Bay to the Straits of Magellan, will be dedicated to freedom and to free institutions. [Applause.]

Mr. Sulzer denied that the annexation of Hawaii would be a departure from the Monroe Doctrine.

The Monroe Doctrine precludes foreign powers from acquiring additional territory on this hemisphere, but it surely does not prevent us from annexing contiguous territory essential to our own preservation.

On the 1st day of April, 1893, the American flag was hauled down at Honolulu. Five years afterward, under the same American flag, the booming guns of Dewey's battleships sounded a new note on the Pacific shores, a note that has been echoed and reëchoed around the world, and that note is that we are on the Pacific, that we are there to stay, and that we are there to protect our rights, promote our interests, and get our share of the trade and commerce of the opulent Orient. [Prolonged applause.]

The great powers of Europe are seeking new markets for their manufactured goods. They know that the markets of the world control the commercial destiny of nations. We must watch our rights and protect our interests in the Pacific. If we do not, I believe we will do the commercial interests in this country an irreparable injury. Our first step should be to annex Hawaii. That is the key to the whole situation. Our next step should be to build the Nicaragua Canal, and our third step should be to rebuild and reëstablish our merchant marine. Annex Hawaii, and all the others will follow like the day the night. Not to annex the islands now would be national folly; to annex them, security, peace, and national insurance. [Long applause.]

On June 15 Henry U. Johnson (Indiana), a Republican, opposed the bill. He maintained three propositions:

First. That the annexation of Hawaii to the United States is not necessary as a war measure in our conflict with Spain,

courage will find exercise in physical courage and in physical action when duty calls. In order that we may have practical courage, physical courage, and moral courage we must have the means of legitimately exercising our physical power, else we are as weak as China when attacked by Japan. Where should we have been in this contest with the weak power of Spain ten years ago before we had developed a navy worthy of the name?

Mr. Speaker, I have become convinced that this nation, to maintain her self-respect and the respect of the nations and in the interest of peace, must have a navy as powerful as any nation in the world, ship for ship, man for man, fort for fort. [Applause.] We must have Hawaii as a part of our naval outfit. We must have the Nicaragua Canal as a part of our naval as well as mercantile outfit. [Applause.]

The time of our swaddling clothes has gone. We cannot shut our eyes to the fact that we have attained to-day to a stature such as none of us dreamed we should ever reach in our day, or even in that of our immediate children. We cannot shirk its responsibilities. We cannot return again to the place of a physical pigmy or a moral dwarf. [Applause.]

On June 14 William Sulzer (New York) supported the bill. He declared that annexation was a good Democratic doctrine, every increase of national territory save Alaska having come under Democratic administrations. One Democratic President alone opposed the policy: Grover Cleveland hauled down the American flag in Hawaii, and attempted to restore the disgraced and degenerate monarchy.

I am glad he failed. I believed then, and I believe now, that his action in this case was the most unwise, the most impolitic, and the most unpatriotic thing he did during his administration. I know many Democrats stood by him in Congress then, and some of them who are here to-day no doubt take the stand they do because they dislike to stultify their records. I said then, as I say now, that it was a sad mistake. The American people are not in sympathy with any man who hauls down the American flag in favor of monarchy. [Applause.]

When the Hawaiian monarchy collapsed it fell like a rotten tree on the bank of a turbulent stream, quickly to be swept away and never to be restored. It is not democratic policy to restore a dead monarchy in the place of a live republic on this

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Second. That the annexation of the island is not necessary in order to prevent it from falling into the hands of some other great power, to be used by it to menace and attack our coast.

(Third. That the annexation of Hawaii is of itself inherently wrong, and that it is the opening wedge which is designed to lead, and which will lead, to still further acquisitions of insulated foreign territory, and that such a policy is against the best interest of the country, and therefore ought not to be entered upon.

Mr. Speaker, this war with Spain furnishes simply a pretext for annexation, not a reason for it. Commodore Dewey, with his heroic sailors, has swept out of existence the only fleet which Spain had in Asiatic waters. His squadron lies unopposed in the harbor of Manila. That city is under the guns of his victorious fleet and is completely at his mercy. Is any man fool enough to believe that Spain dare send the only other squadron which she possesses, that which is designated as the Cadiz squadron and which is now maneuvering off the coast of Spain, to the Philippine Islands to relieve her forces there? The very moment she attempts it she leaves her own coast to be ravaged by the formidable fleet which we can with perfect ease and safety spare from our naval operations in the Caribbean Sea against Cuba and Puerto Rico. Nor is it possible to dispatch a Spanish army to the Philippines, for how can an army be sent without vessels of war to act as its convoy?

Mr. Speaker, it is admitted that we already possess a coaling station in the islands; that we have collected at Honolulu a large quantity of coal, and that, by permission of the Government of Hawaii, our war vessels and transports stop there and coal *en route* to the Orient. What more do we want there for war purposes?

It has been said that, if we do not annex these islands, when peace is declared between Spain and ourselves she will claim damages and collect them from these people for their violation of neutrality laws in our interest, and that she will punish them. All such talk, sir, is absurd. To assert that weak and impotent Spain can levy any damages against Hawaii or punish her because she has given us an opportunity to enter her ports and coal there during the existence of this war is simply ridiculous. Do gentlemen forget that the same fostering care upon our part that has maintained Hawaiian independence in the past will be exerted, if need be, to protect her hereafter, and that in the treaty of peace with Spain, a treaty that will be dictated by the United States, a clause can and will be

inserted, if necessary, upon our demand, releasing all claims against the Hawaiian Government by the Madrid authorities for any aid she may have afforded us during the existence of hostilities?

If Spain desires to visit punishment on the Hawaiian people, we can defend them when they are independent as well as though they are annexed to our own soil. We can easily come to their rescue without the necessity of political union with them.

But, Mr. Speaker, the annexation of Hawaii is not the ultimatum of the annexationists. It is but the entering wedge. Permit this act to be done, and you gain an impetus which you will find it difficult to resist. Its avowed purpose, its natural tendency, its irresistible consequence means that we are to proceed still further in extending our possessions and in the acquisition of foreign territory in no wise contiguous to our soil.

Mr. Speaker, is there not grave danger that this holy crusade for liberty and the independence of Cuba is liable, after all, to end in a disgraceful scramble for spoils, a scramble as disgraceful as any that ever characterized the people of ancient Rome? Is there not a disposition here to commit the American people, suddenly and before they can have an opportunity for calm thought and reflection, to a policy which will inevitably result in their injury; and which they will condemn when they have the time to grasp it in all its aspects and weigh it in all its consequences? Are we not acting here for posterity as well as for ourselves?

Why is it that gentlemen rush with indecent haste to pass this resolution now? Why is it that they are absolutely unwilling even to submit it to the people to be discussed pro and con at the polls at the next election?

Sir, I insist that this proposition for annexation should be postponed until after the next election, when our constituents can have the advantage of the arguments which have been made, and to the end that we may then come back here as their representatives, fully advised as to their judgment, given upon due deliberation, prepared thereby to execute whatever may prove to be their will.

Mr. Speaker, I do not believe that the masses of our countrymen favor this annexation. I do not accept the opinion of the Chief Executive as a just exposition of their views. Neither the clamor of certain of the press nor the demands of military and naval dignitaries should conclude them. But, even if the majority of our constituents are inclined to this measure, and

distinction? In times of profound peace, when our army and navy are small, and we have no colonial possessions to garrison, Othello's occupation is gone, and the opportunities for promotion are few and far between.

One does not have to be a graduate of West Point or Annapolis to be able to read the pages of history aright and to draw from them accurate and useful lessons as to the effect of territorial and provincial holdings upon the destiny of nations. Our military and naval officers may declare until they are red in the face, as they did before the Committee on Foreign Affairs, that we will require a less navy instead of a greater one after we have annexed Hawaii, and you and I are at liberty to believe it or not, as we see fit.

But to get back to the point at issue. It is claimed that if we do not annex Hawaii its people will voluntarily transfer the island to some other power. Mr. Speaker, I deny it. Never have the people of Hawaii manifested the least inclination to join their fortunes to that of any other nation on earth than ours. They have vigorously resisted at all times any suggestion of foreign domination by other countries. Their trade has uniformly been with us. They have had no inclination whatever toward the great nations of the Old World, from whom they are separated by thousands of miles of water.

For years their absolute independence has been guaranteed by the United States and by a joint treaty entered into between England and France. Are we to believe, then, that just at this time, when no nation is moving against them, when the treaty between England and France is still in force, and when we, stronger and greater than ever before, are still guaranteeing their freedom, they will consent to transfer themselves to some other country simply because we do not accept them? The idea, sir, is preposterous.

President Dole, in an interview which occurred in Chicago and was published in the *New York Journal* of the 24th of last January, was asked what would happen in the event that the United States rejected annexation. He answered: "Well, the republic is there. I do not know that anything would happen, except that things would go on as usual. I do not see any immediate danger from possession by any other country."

If, however, these people would not voluntarily surrender their autonomy, is there still danger that a foreign power may seize and hold Hawaii against their will—forcibly annex it, and thus obtain a base of operations against us in case of war with us?

we believe their conclusion to have been reached without having the facts fully presented for their consideration, and that annexation will result in their injury and to the damage of our country, it should still be our high prerogative and our bounden duty to interpose a barrier between them and the evil they are about to embrace, until they have had the opportunity to review their opinions and make a final decision in the light of all the evidence.

Mr. Johnson then discussed his second proposition.

The logic which insists that we shall possess ourselves of Hawaii upon the ground that it can be used as a basis for menacing our coast proves too much. It goes too far. The same logic carried to its natural conclusion would require us to dislodge England from British Columbia in the Pacific and from Halifax and the Bermudas in the Atlantic, where for years she has held strongly fortified positions within easy range of our shores.

Let me call gentlemen's attention to this very significant fact, that we have had within easy striking distance of us for years these fortified strongholds of this powerful nation, and yet for nearly a century we have not had a single war with her. She has during all this period been unable to oppress us or deprive us of our rights. Every controversy we have had with her has been settled amicably and by the peaceful arts of arbitration, instead of resorting to bloodshed and the sword. In these modern days, sir, it does not follow of necessity that "lands intersected by a narrow frith abhor each other." It is possible to occupy adjacent territory and still preserve peace.

Mr. Johnson then opposed the view of the military and naval officers that the possession of Hawaii was necessary to our protection against foreign nations. These gentlemen, he said, viewed the opinions held on war measures by plain citizens with a compassion bordering upon contempt, yet their special interest in these matters was the very element which, by giving a bias to their opinions, vitiated the soundness of their conclusions.

Bred to arms, is it at all surprising that they should desire that which will give them opportunities for employment and

This pretence has also been made, sir. When the report from the Committee on Foreign Affairs was made to the Senate on a resolution for annexation of Hawaii, there was written in the report a statement that England had designs upon the island. But, sir, the ink upon the paper that contained that declaration was scarcely dry before Sir Julian Pauncefote, pursuant to instructions from his government, hastened to make known to the United States that nothing of that kind was intended and to disavow all such purposes.

It has also been claimed that the Japanese were trying to colonize the island with a view of getting it under control and then turning it over to Japan.

Certainly the Japanese could not do this by peaceful methods, for in response to my question the gentleman admitted that, under the constitution and laws of Hawaii, the Japanese had not the right to vote. It is not denied that they are most of them on the island as contract laborers under a seven years' contract, without any political rights whatever. No sooner, sir, had this claim been made than the Japanese minister hastened to make a disavowal, not only on his own account but for his government.

The Japanese minister has further pointed out to us that Japan does not favor emigration of her people and that it has never been her policy to extend her territory beyond the zone which immediately surrounds her.

Sir, pass the resolution which the minority offers in this instance as a substitute for the annexation resolution of the majority, declare to Hawaii and the world once more our old doctrine that we guarantee the independence of the island and will maintain the same, and that no foreign nation must lay hands on it, and there is not a power in the world that would dare to violate the declaration, because it would know that a violation of it simply meant a terrible and destructive war with the greatest nation of modern times.

But, if there is any doubt upon this point, how easy it would be to settle it by an amicable arrangement. I myself had the honor to introduce into this House a joint resolution, now pending before the Committee on Foreign Affairs, which provides that the President of the United States shall appoint three commissioners on behalf of the United States to meet a like number of commissioners from each one of the leading nations of the world, at a conveniently early day, at Washington, to formulate a plan for an agreement, to be reported back to the respective governments for their adoption, forever guaranteeing the en-

tire independence of Hawaii, and prohibiting the taking possession of any part of its soil.

There is not a nation on the face of the earth that would not be willing to accept an agreement containing this proposition. England is committed to the principle; France is committed to it; Japan is committed to it.

If, however, it is thought that by inviting other nations to have a voice in this arrangement concerning Hawaii there would be a yielding up of the principles of the Monroe Doctrine, how easy it is to disavow such a surrendering except in this specific case in the very agreement itself, and to declare that the making of it by us shall not be construed as a warrant to the contracting nations for aggression in our hemisphere.

But, Mr. Speaker, it is contended that we already have a perpetual right to Pearl Harbor, which is the essential part of the Hawaiian Islands, under our second reciprocity treaty with that country. This harbor and its immediate environments are practically all that is necessary to be held for war operation and a coaling station. I grant you that whether we possess perpetual right in this harbor is a debatable question. Mr. Bayard has said that our rights there will expire when the treaty expires.

But, sir, I see it positively stated that Mr. Sherman has said and that Mr. Morrill has said that it was the understanding, when this Pearl River Harbor grant to us was inserted in the last reciprocity treaty with Hawaii, that it guaranteed to us a permanent right to that harbor. It is also stated that they have said that Mr. Edmunds, whose legal ability no man can gainsay, drew the provision with this very object in mind, and that he always put that construction upon it.

But I care not which one of these constructions is accepted. The fact remains that we can, if we want to, purchase Pearl Harbor of Hawaii and fortify it, and in my humble opinion we can purchase it without any difficulty. [Applause.]

Mr. Johnson then discussed the status of Hawaii after annexation. Referring to General Charles H. Grosvenor (Ohio), who had "scorned" to discuss this question, he said:

Indeed, all the other gentlemen who have advocated annexation have been careful to avoid this phase of the subject, adverting to it only when interrogated about it, and then dismissing it hurriedly with the declaration that the question will

very genius of our free institutions, as well as the invariable practices of our people, cry out in vigorous protest against it.

This Government of ours is 'of the people, for the people, and by the people'; it contemplates no such thing as the holding of provinces with no right of local control and no hope of ultimate statehood. It was conceived in protest against the holding of men in servitude. It hath ever been and ever must be the antithesis to that odious system which holds possessions by the sword and draws sustenance from their products. Under our flag individual aspirations for liberty and citizenship are encouraged. If men are never to be qualified to participate in the blessings of free government, we should studiously avoid extending over them the folds of our starry flag. A name will avail us nothing if we abandon the essence of our polity. We cannot remain a republic and at the same time practice the methods of a despotism.

And where, may I ask, have we the machinery for the government of provinces? I know, sir, that we pride ourselves upon our capacity for political affairs; that we boast of our genius for administration. I have heard gentlemen say that whatever any other nation can do we can do also. Notwithstanding all this, I venture to suggest that we have no special training for the management of colonies and outlying provinces in the region of the Tropics, populated by alien and mongrel races. Great Britain, who has been beyond doubt the most successful of modern nations in this line, despite the many misfortunes which have plagued her in her colonies, is thoroughly equipped for such administration. She possesses a magnificent civil service, in which persons are specially educated and equipped for the government of her dependencies. With her favoritism is unknown in the selection of these officials. The most perfect qualification is required.

But how long would we tolerate such a system of selection of men for the administration of our tropical possessions; we who are constantly denouncing our civil service as an undemocratic and monarchical institution and are vociferously demanding its overthrow and destruction? Ah, sir, of one thing we may well rest assured: Whatever form of government we may confer upon these islands, the offices essential to the conduct of their affairs will be eagerly sought after with wild clamor by the henchmen of public men as rewards for political services which they have rendered to their masters. Favoritism in appointments will abound. Thorough equipment for the work will be largely ignored.

be solved when the proper time arrives, that we can safely be trusted to determine the matter wisely, and other answers equally as vague and evasive.

Mr. Speaker, what kind of statesmanship is this which regards only present action and gives no thought to ultimate results? Is this the kind of "leadership" which we are to follow—the leadership which leaps without looking? I for one do not "scorn" to discuss the question, and I again ask what do we propose to do with Hawaii and these other insular territories when we get them? The demand for the immediate passage of the pending resolution makes this a present problem, and gentlemen cannot either ignore or evade it.

Mr. Johnson emphasized the arguments of Mr. Clark against admitting Hawaii a State, chiefly the one that the deciding vote of a Hawaiian Senator or Representative might direct the destiny of the nation.¹ This incapacity for statehood carried with it incapacity for the condition of a territory since government in local affairs was relegated to the inhabitants of our inchoate States.

There is but one other course left open to us. We must govern these islands as conquered provinces. We must hold them by the hand of stern repression, according to their inhabitants neither participation nor representation in our Government. It is thus that ancient Rome held her conquered territory. It is thus that England now holds certain of her tropical possessions. We must have our captains-general, our governors-general, our councils of administration, and our executive councils. We need not call our governing bodies by these very names, but they will possess and exercise the precise functions of these dignitaries.

But where do we find American precedent or authority for such a form of government as this? You will search for it in vain, though you ransack every archive and depository in the land. Nor can you find any sanction for it in the customs of our people. The Declaration of Independence, the spirit and letter of the Federal and State constitutions, the utterances and writings of the Fathers, every page in the *Federalist*, the teachings of our publicists, the decisions of all our courts, ay, the

¹ An exemplification of the power of the deciding vote was afforded in the Democratic convention of 1900, when Prince David K. Kawanakoa, a delegate from Hawaii, cast the determining ballot in favor of reaffirming the Free Silver plank of 1896.

And what is to be expected, gentlemen, of an administration of a province conducted by such appointees as these? Away from the scrutiny of the home Government, they will prey like harpies upon the ignorant people, who will not only be incapable of defence but even incapable of protest. Injustice, peculation, and scandal equal to that practiced by Lord Clive and Warren Hastings in India will be the order of the day.

Our public officials will vie with the unscrupulous adventurers who will seek these islands in hopes of bettering their fortunes, in schemes for their enrichment by means of oppression and plunder. The great syndicates and trusts will find there a congenial field for their operations, where, away from the pressure of that public opinion which here imposes a certain degree of restraint upon their excesses, they will pursue their heartless and unconscionable practices without stint and without restraint.

These provinces, too, Mr. Speaker, will become the inevitable home for political intrigue. Here it will be that the unscrupulous politicians will lay their plans, will hatch schemes for the control not simply of dependencies but of States—of the National Government itself. The thunderbolts that are to be launched at a free people will be forged upon these islands, which, in our weakness and folly, we unconsciously dedicated to this hostile purpose.

Sir, we do not want Hawaii or any of these other islands. We do not care to assume their debts and obligations. We have enough debt of our own, now rapidly increasing day by day, to tax our resources severely and impose heavy burdens upon our people. Let Hawaii keep her volcanoes, which are extinct, and her leprosy, which is extant. Nor do we covet the vices and miseries of these heterogeneous populations of the tropics. Unlike the inhabitants of the temperate zone, they are wholly incapable of assimilation, and without capacity either to appreciate or embrace the genius of our institutions. General Garfield was right when he said, at the time the first treaty of reciprocity with Hawaii was pending, that there ought never to be any extension of our territory into the Tropics and that to do so would weaken both our Government and our people. Their possession will promote neither our happiness, our prosperity, nor our power as a nation.

We do not need any of this territory for the expansion of our people, for, unlike the thickly settled nations of the Old World, we have here a mighty area, a vast empire of our own,

amply large enough to accommodate with comfort any possible increase to which our population may attain in centuries to come. We have variety of soil and climate, diversity of industries, and unbounded natural resources and material wealth all at our command. Our fields are to be sown with grain, our mines are to be opened and worked, our factories are to be operated, and these are sufficient to occupy our time and our energies and to yield us an ample return for our endeavors. Why should we, then, abandon the development of that which is our own for these less desirable and less profitable lands, which none but those who are accustomed to the climate can cultivate with success?

Nor should we annex to our domain, Mr. Speaker, any territory whose people are many of them unwilling to consent to the annexation. Talk, sir, about the authority of the Hawaiian Government as you will (and no one disputes its *de facto* existence nor that it has the bare legal right to form a union with us by treaty, as provided in its constitution), the fact, nevertheless, remains, and it is useless to deny it, that a large number of the people there are strongly opposed to this movement. Of this we have ample evidence. Shall we now, as a free people, invoke the technicalities and brush aside the equities of the case to the end that we may receive in a spirit of cupidity a gift which the Dole Government cannot in honor and good faith proffer and which we cannot in honor and good faith accept?

Gentlemen, we do not desire to establish a precedent by making this acquisition. We appreciate that it will scarcely be made before it will be cited as authority for still further encroachments. Ah, Mr. Speaker, how easy it is to make a mistake! How difficult to recover ground once lost! How terrible the force of a wrongful inertia!

We oppose the pending resolution, too, because it involves a total abandonment of our cherished traditions.

I have heard those who oppose these efforts at annexation stigmatized, both here and elsewhere, as back numbers, as barnacles who impede the onward progress of the ship of state. It has been said that we are making now precisely the same arguments and predictions which were made against the annexation of all the vast territory whose subsequent history has added so much to the greatness of the country and has shown conclusively the fallacy of the objection urged to its annexation. Mr. Speaker, the gentlemen who indulge in this kind of prattle seem wholly incapable of drawing plain distinctions.

In the exuberance of their denunciation they seem to over-

be needed. Our army must be enormously increased in size, for these various acquisitions must be strongly fortified and garrisoned. And there, gentlemen, are also our increased reserves, and our coast defences, which must not be neglected, for this novel and splendid policy of empire which we are to inaugurate requires that we shall continue to defend our own shores as well as defend these islands which we are to acquire.

Mr. Speaker, this is a brilliant and a dazzling career that is being marked out for us; but will it pay? Will our people be the happier, the more prosperous, the more powerful, if they pursue it? The trained eye of Bismarck has been quick to grasp our situation and to see our folly, and he has declared that this proposed policy would be an intermeddling policy, leading to unavoidable frictions; that it would require us to become a military and a naval power—which he characterizes as an expensive luxury, rendered unnecessary by our geographical position. He has truthfully declared also that our change of front means retrogression in the high sense of civilization.

Mr. Speaker, are we to exchange the tranquillity which has been ours for the alarm and anxiety which are the plague of the people who thirst for universal empire? Are we to have war flurries which disturb business and international differences which check development? Our interest clearly requires that we should steer clear of an Anglo-American alliance, however much our sympathy may bind us to our kindred across the sea. But what nation which holds colonies has ever yet been able to avoid alliances with other powers in order to maintain her possessions against nations of envious and unfriendly disposition or whose interests clash with her own? Does not all history demonstrate that this is true?

Gentlemen, there is but one safe course to pursue. Let us avoid the segregation which leads to war and makes defence difficult. Let us preserve our territory compact, where our geographical position, our immense population, and our great resources render us impervious to successful attack. Our base of supplies is thus at our very backs; our lines of communication cannot be cut off. Let us apply ourselves to the correction of internal grievances by the passage of just and wholesome laws, and to the development of our wonderful natural resources. That we should have an adequate army and navy and coast defences is undoubtedly true; but let our mission be that of peace, and no nation is likely to disturb or to oppress us. It has not been done in the past; it is not at all likely to occur in the future.

look entirely the difference between annexing territory which is contiguous and territory which is insular, territory which is in the temperate and territory which is in the tropical zone, territory which our own people are capable of inhabiting and cultivating and territory which they can neither exist in with comfort nor cultivate without distress; between territory in which self-government is a possibility and territory in which it is wholly out of the question, territory which can be defended with ease and territory which can be defended only at great risk and expense.

Under this traditional policy of ours, sir, we have grown and developed until we have become the wealthiest and most powerful country upon the globe, far outstripping in progress the nations who have adopted and practiced the policy of insular acquisitions.

Concentration, sir, not diffusion, is the desideratum; a nation which is compact, not one which is scattered to all parts of the globe. Russia seems to have grasped the force of this proposition. She saw in Alaska a segregation which was her weakness. She was glad to rid herself of the danger. Her great power to-day rests no more upon her vast population and her autocratic rule than upon the compactness of her domain, from which she can send forth her mighty armies to attack and overpower, and yet be under no necessity of defending distant provinces from the assaults of her enemy.

Hawaii, Puerto Rico, Cuba, and the Philippines once a part of our domain, they become not sources of strength but sources of weakness. They are vulnerable places in our national armor which invite attack. They will be constant subjects for irritating differences with other powers—powers with whom our present isolation makes it easy for us to remain at peace and yet grow and prosper with unprecedented rapidity. It is the possession of outlying territory that to-day puts Spain in our power. Her diffusion is her greatest weakness.

With this territory wrested from her grasp, we will be better able to defend it than she; but reflect one moment, sir, at what an enormous outlay of trouble and expense. Admiral Irwin, himself a strong advocate of territorial expansion, admits that the adoption of such a policy will require us to maintain a navy equal in power to any in the world. Measure, gentlemen, the disparity between our own navy and that of the mother country, and then tell me what it will cost us to build such a navy, to say nothing of the cost of its maintenance.

But the navy is not the only arm of our service which will

But I have heard it said in this debate that we must acquire these possessions to increase our trade. Mr. Speaker, neither economic science nor human experience sanctions the theory that trade can only be built up by the annexation of territory. The logical way to increase our trade is to produce commodities superior in quality and cheaper in price than our competitors, and then to break down the walls of our tariff, except so far as the protection of our laboring population makes it necessary that it shall stand, that combines and trusts may not interdict trade, oppress the consumer, and grow wealthy upon the monopolies which they enjoy. Nor should we forget, sir, that trade is not the selling of commodities for money, but the exchange of commodities for commodities.

I confess my amazement that gentlemen on this floor who are stanch Republican protectionists should be urging so strongly the annexation to the United States of these tropical countries where cheap coolie labor, under the direction and control of great syndicates and corporations, can and will produce competing products of the American farm, such, for instance, as rice, sugar, and tobacco, cheaper than they can be produced here, and then transport them to our shores duty-free and sell them in the American market.

What is likely to be the effect, sir, upon the American laborer, especially the American farm laborer, of such a policy as this? I do not wonder, in view of the outlook, that the president of the American Federation of Labor has addressed a letter to the Speaker of this House protesting against the passage of the pending resolution. Mr. Speaker, this new policy of imperialism is against both the interest of the farmer and the interest of the laborer, and for this reason those who profess to be in sympathy with these classes should antagonize the policy at the very outset.

And, then, there is the Monroe Doctrine. Gentlemen, has this doctrine no corollary? What is it that has induced the trans-Atlantic nations to acquiesce in our domination in this hemisphere if it is not our disavowal of all intention or right to interfere in the affairs of the other hemisphere? And yet it is now openly declared on every hand by those who believe in this "march of empire" that we propose, having justly pushed our way to the very doors of Asia, to remain there after our necessity has ceased and establish ourselves forever as a factor in the local affairs of the Orient.

Think you that this course will increase European respect for the Monroe Doctrine and tend to increase its stability? Be-

ware, gentlemen, of the law of retaliation. We must take the burdens along with the supposed benefits of this novel doctrine which we are to embrace. Let us not be surprised if we become the subject of reprisals from abroad and if, in grasping for power there, we suddenly discover that we are in danger of losing power nearer home.

Mr. Speaker, in conclusion, there is one pathway out of this dilemma which is less dangerous than the rest. Why shall we not take it? Let us reject the proposition to annex Hawaii. Let us retire from Cuba as soon as possible after this war and the establishment of an independent and stable government by its people, thus keeping faith with the Cubans, the world, and ourselves.

Let us not hesitate to seize upon Spanish soil wherever the necessities of war may demand it for the sake of victory; but when peace is restored and our indemnity paid, let us restore her lost provinces to the government at Madrid, or, if Spain will not or cannot redeem them, let us dispose of them to some other nation, for we will hardly be able to find a purchaser who will not govern them more justly than she. This should be done for our own sake, not for the sake of Spain. Having done this, let us turn again to peaceful pursuits and to the realization of that glorious destiny which awaits us if we are only true to traditions which deserve to be imperishable.

Jonathan P. Dolliver (Iowa) supported the resolution. He paid Mr. Johnson the dubious compliment of having made the strongest argument against annexation in his two speeches (the first in the preceding year), and yet of attracting no more than the applause of the House—for he would find, when the question was taken, a singular absence of votes in the negative.

Mr. Dolliver put this dilemma to Mr. Johnson and the other opponents of the resolution:

We either have an interest in acquiring the islands or we have no interest in standing guard over them against others. If they are important enough to defend from others, they are important enough to acquire for ourselves. I for my part have more confidence in our own country than I have in any other country in the world. We know there is no nation in Europe that does not appreciate the strategic value of this halfway station in the ocean.

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statesmen of both parties in the past fifty years, has also had his mind poisoned by the atmosphere which surrounds the position he has taken, until it appears credible to him that the opinions of our great soldiers and sailors are worthless, because, in his judgment, they are actuated by a desire for promotion in the national service?

Captain Mahan says that few ships of war can carry fuel enough to go from San Francisco to Asia without stopping to recoal, and he says that no ship can come from an Asiatic station to our shores to attack our coast and be able to get back without having a place to coal. Even a landsman can understand that; and therefore I put my faith in him when he points out that, since these islands must harbor the coal supply of the mid-Pacific, they literally command that ocean, so that if our country controls them we have in them an absolute protection for our coast. [Applause.]

My friend says you can go to China and the East by a shorter route. If that were true, it would not touch this question. This is a question of national defence, not a problem for passenger agents. The gentlemen from Ohio [General Grosvenor], in the great speech that he made in this House yesterday, quoted the statement of Captain Bartlett, former Hydrographer and now Chief of the Office of Naval Intelligence, in which he points out in plain terms the reasons which offset the geographical advantage of sending ships from San Francisco to the Orient by way of the Aleutian Archipelago.

And the explanation which he gives seems in my mind to be reasonable and conclusive. Ships going by that route encounter a current running at the rate of more than a mile an hour, and ships passing through that latitude encounter fogs and foul weather at all seasons, and therefore this practical student of the problem is convinced that that route is not advantageous, even if it is pursued by some lines of steamships. If what is said about this Alaskan port is true, it is another evidence of the farsighted wisdom of Secretary Seward in boldly rejecting the counsel of the enemies of that annexation in his day. But what has that to do with this question? What comfort is the United States to get out of this Aleutian harbor if a hostile squadron, approaching us from Asia, is admitted to the coaling privilege at Honolulu?

But my friend says we are about to annex all the Spanish islands, east and west, as well as this Hawaiian group. The American people will take care of the Philippine Islands when our campaign in the Orient is at an end. They will take care

My friend started out with the proposition that it was not necessary for us in this war. That is not the question. This war is an incident, a noble and splendid incident, but only a transient incident in the life of a great community like ours. We are not dealing to-day altogether with the war with Spain. We are not acting for this hour, or for this year, or for this century, or for the next century; we are acting for the millenniums yet to come, with our hearts full of the sublime hope that the institutions planted by our fathers shall endure through long distant ages. [Applause.]

On the question of expert military opinion Mr. Dolliver said:

Most of us have a little hesitation in putting ourselves against the military authorities of our own times. My friend from Indiana has overcome that. I regret to see so good a man setting himself to write a platform for all the street-corner strategists of the country to stand on. It would seem that we have had enough of cheap and furious general orders issued on the dry-goods boxes in the villages of the United States.

When I want to get light on a military question I go to a man who has made war a study, and for that reason I cannot accept my friend's opinion of the military necessity for the annexation of the Sandwich Islands. I like the gentleman, and confide in his abilities as a lawyer, but in this matter I prefer to go to General Schofield, who says that from a military standpoint the annexation of these islands is a necessity to the United States.

We have also the authority of Captain Mahan, in some respects the most influential living authority in naval matters, an authority of war recognized by the whole world, who says that the annexation of these islands is of immense importance now and hereafter to the successful naval operations of the United States. Now, the gentleman from Indiana ridicules this, and says that the officers of the army and navy of the United States, having been educated at our academies, are circumscribed in their outlook and liable to give an unreliable counsel in these matters on account of the selfish prospect of their own promotion.

I am ashamed to listen to such a judgment offered upon this floor. Is it any wonder that my friend, who has pored over the Hawaiian question until he has lost confidence in the foremost

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of Puerto Rico; they will take care of Cuba, and that afflicted community will find in the hearts of our people, when our work in Cuba is done, the same sympathy, the same anxiety for their welfare, that persuaded the great Republic to enlist an army and send its navy on its mission of mercy and peace in the West Indies. [Applause.] My friend need have no fear. Every question that arises will be taken care of; but we must take care of the question of Hawaii first, because it had the floor fifty years before the other questions arose. [Laughter and applause.] Therefore, Mr. Speaker, I am in favor now and here of making an end to this controversy and raising in that fortress of the Pacific the old flag of our fathers, once hauled down, but about to be run up again, forever afterward to glorify the skies of the Southern Ocean. [Prolonged applause.]

William P. Hepburn (Iowa) supported the bill. Denying that the annexation of Hawaii necessarily committed us to a colonial policy, he nevertheless accepted the venture.

Who dares to say that, even if we should enter upon this new policy, the fate which befell the Roman Empire would be ours? Look at England. What would she be to-day if confined to her insular domain? The mistress of the seas? Ah, no! One of the leading nations of the earth! Ah, no! Giving her laws, her literature, and her civilization to all the world! Ah, no! Had there not been a Frederick the Great, who can say that the little Duchy of Brandenburg would have extended itself into the great German Empire of to-day? This same "greed," this thirst for annexation, this desire for new territory, this passion for extending civilization, has blessed the earth.

The statesmanship of the earth to-day is in favor of this system of colonization, of territorial expansion, of breadth and greatness and grandeur, of extension of empire. All the statesmanship of the world, save that of the Democratic party here in the United States, says "aye" to the proposition; they alone are halting in the procession. [Laughter.]

But, Mr. Speaker, how strange is this attitude of the Democratic party! Gentlemen, what inspires you now to this new departure? I say it is a new departure. Heretofore you have been the annexationists. Every argument that you have made here to-day or during this debate was refuted by the friends of Mr. Jefferson in 1803; again in 1819; again in 1845; again in

1848—refuted over and over again. Let me read a sentence or two of Democratic doctrine to remind you gentlemen how far you are departing from the faith of the fathers—your fathers, not mine, thank God! [Laughter.] Mr. Speaker, I read from a document that forty-odd years ago occupied more of public attention, that commanded more of the respect of the Democratic party, than any other single document that you can find, unless it is the Declaration of Independence:

Here the speaker read the Ostend Manifesto (see page 83).

That was your doctrine, gentlemen, only a little while ago. What now has become of your then passion for territorial aggrandizement? What has given birth to these new fears of yours? There was no fear in 1854 or in 1860 that through the acquisition of Cuba we should have implanted in the system of the body politic that thirst and hunger, that greed for territory which would lead us on to that kind of expansion that resulted in the destruction of Rome. No man seemed to care a "continental" then about Rome [laughter on the Republican side]; no Democrat in the land was howling then about the example and fate of Greece; no man was fearful that we should extend our territory over Africa and Asia and the islands of the sea. Are you gentlemen wiser?

The old men thought that what brought about the grandeur of their country, territorial expansion, was Democratic. The new men are unwilling that anything of that kind shall be done by a Republican Administration.

Mr. Speaker, I am not prepared to say how Hawaii would be governed if a part of the United States, but I undertake to say that if the Republican party is in power and has control that it will be well governed. If there is slavery there now, as gentlemen tell us, it will be obliterated. [Applause on the Republican side.] I can promise you that. If there are unjust laws there now, they will be repealed then. I cannot tell you whether Hawaii will be a State of the Union, or when. I undertake to say, however, that with the experiences that we have recently had [in Reconstruction of ex-Rebel States] they will be permitted to undergo such period of probation as will assure us that they are fitted for republican institutions. [Applause on the Republican side.]

Mr. Speaker, there are three methods of acquiring territory—by discovery, by conquest, by purchase. Each is legitimate

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stained doctrine respected by others, we must scrupulously practice what we preach.

Some tears were shed in the former and confidential part of this debate for the reason that we, unlike European nations, had no colonies nor dependencies and were not alert in the seizure of ports and harbors of China, ostensibly to build up trade and commerce, as all Europe seemed to be doing.

Yet the monopoly of these ports and harbors, for their own exclusive benefit, appeared likely to provoke the hostility of other commercial nations, and therefore a trio of the China reformers, now led by Great Britain, at once agreed to make all these ports as free and open to the whole world as to themselves. The loudly proclaimed overwhelming necessity that the United States should begin to snatch by diplomacy or by force some foreign market place, or annex some foreign islands, or at least twist the tail of the British lion, has been, it now appears, overworked, and all of its varied pathos has fled.

The reciprocity treaty with the Hawaiian Islands of June 3, 1875, was an enormous blunder, greater even than that with Canada in 1854, on the part of the United States, as a brief examination of its practical operation will conclusively show. Thus exempting their sugar from duty by compact we gave to those who were unentitled to it by reciprocity or by furnishing our people with any cheaper sugar the power annually to intercept and take away from us millions of revenue on sugar for which no fair equivalent of commerce or of sentiment has ever even been pretended. To obtain more revenue we had just imposed on sugar extraordinary duties, and the remission of such duties on Hawaiian sugar and molasses, as might have been expected, gave enormous profits to the sugar planters and greatly augmented the Hawaiian production of sugar. Much of the most valuable sugar lands there were immediately largely monopolized, sugar machinery was swiftly and annually imported, and many thousand coolie laborers from China and Japan were suddenly brought and put at work in Hawaii at the coolie rate of wages.

In 1876 our imports of free sugar from Hawaii were only 26,000,000 pounds, but in 1896 increased to 443,000,000 pounds. The treaty ought long ago to have been terminated or reasonably modified, so as to have remitted not more than 10 or 20 per cent. of the duties on sugar, or no more than we may properly remit on the sugar of Brazil or Germany, where our trade would require and receive some reciprocal advantages in return. Some interested parties in Hawaii might regret a collapse in

and recognized by the family of States in the law of nations. We are now engaged in war against Spain. It is our duty to cripple Spain in her navy, in her army, in her revenues, in her possessions. We hope, every patriot hopes, that Cuba, Puerto Rico, the Philippine Islands will be ours by conquest. [Applause on the Republican side.]

Successful war demands that this should be. When you gentlemen say that you will have none of it, are you praying that disaster shall come to our fleets and to our armies—that we may fail in conquering those islands? Surely I know that you do not mean that. Therefore you must be consenting that we may acquire in legitimate and lawful ways—by conquest—these possessions of Spain. What we will do with them afterward is a question for the statesmanship of this great nation. That we will act wisely I have no doubt. But, whatever we do with that territory, I am persuaded that this side of the House, and I believe that side, will insist upon retaining such portions of that territory as will enable us to meet all of the requirements of modern commerce. In the old days, with the old instrumentalities, we did not need the frequent friendly port. Now we do. We must have it or drop out of the procession of nations in their great effort to capture the commerce of the world. [Prolonged applause.]

The minority resolution was defeated by a vote of 96 yeas to 204 nays. The joint resolution of the majority was then passed by a vote of 209 to 91.

The resolution was referred in the Senate to the Committee on Foreign Relations, which reported it without amendment on June 17. It came up for discussion on June 20.

ANNEXATION OF HAWAII

SENATE, JUNE 20-JULY 6, 1898

Justin S. Morrill (Vermont) opposed annexation. He declared that it would advertise to the world the final wreckage of the Monroe Doctrine.

We cannot afford to denounce and forbid all acquisitions of territory in the Western Hemisphere by European governments, even at the peril of war, and forthwith embark in a thus damned enterprise ourselves. If we would have our yet un-

their present enormous advantages, but our people would not regret to have this unreciprocated and quixotic boon no longer so extravagantly maintained at their cost.

Our home producers of sugar do not want to be confronted forever with the competition of free sugar produced by coolie labor which no American can afford to tolerate, much less to protect, as we are doing and as it is now proposed we shall do forever. Our election of 1896 was not won on a pledge of protection to the sugar production of Hawaii.

Senator Morrill urged the argument, with which the reader is already familiar, that the Hawaiian natives (nine out of ten of whom opposed annexation) were not fitted to sustain republican government; they might even restore the deposed Queen. Besides these Kanakas there were other non-American races in the islands—Japanese, Chinese, and Portuguese.

Certainly none of these could ever be safely counted in favor of leaving the "paramount" authority in the hands of the United States, and an army of sufficient strength, with the Stars and Stripes, would therefore be a permanent necessity to shield the islands from insurrections and revolutions.

One gentleman in this debate rests his argument for annexation on his belief that the Chinese and Japanese will be at once driven out of Hawaii by Americans and expatriated. All history will show that this is impossible. The few Americans there now could not do without their labor. No race is ever supplanted except by a hardier one—one that can endure more hours of labor and be content with cheaper and coarser food. The British troops took Quebec, but the Canadian Frenchmen remained in Canada. They are there now, and so is their language. We have had colonization societies for generations, and expended large sums of money in sending away colored immigrants, but wholly without success, because their labor is indispensable here, and it cannot be superseded by more acceptable labor.

It has been the happiness of the Republic of the United States that it has long and very distinctly had the benefit of a contrast with aristocratic empires and monarchies in relation to colonial dependencies. These arrogant aristocracies nurse their pride and dazzle their subjects with the obedience and enchantments of distant colonies and dependencies, but their condition is now, or was recently, on exhibition by their paternal and ma-

ternal wars and rumors of wars in India, North and South Africa, Madagascar, Egypt, China, Philippine Islands, and Cuba.

These perennial colonial flagellations, or life struggles of colonies and dependencies which refuse to stay conquered, require the increase of big home armies and bigger navies, which can only be maintained by the biggest taxes. The aristocratic empires push the inexorable demand of three to five years of the life of all their young men in military service, and then to be ready for further service until emancipated by the decrepitude of old age. These large standing armies threaten their neighbors, and their neighbors threaten everybody else by an increase of their battleships. Boundless public debts and double and twisted taxes leave their people poor, with no hope that these grim and stubborn exactions will ever be less.

Hitherto the statesmen of our Republic have kept clear of colonies and dependencies, for it need not be admitted that Alaska is an exception, nor that it is ever more likely to become one of the United States than any other part of the yet unappropriated North Pole. Our young men of the Republic are at school, or at work on the farm, or busy somewhere learning a trade or a profession from which they may derive a livelihood or the comforts of an independent home. They are not impressed for the regular army, which is so small as to be almost invisible, and wholly composed of volunteers. Two-thirds of our rebellion debt has been paid, and we fully expect to pay the remainder, and that it will speedily grow less.

The historic policy of the Republic of the United States for the hundred years just passed, based as it has been upon the sound doctrine promulgated by Washington in his farewell address with words of perennial wisdom against foreign entangling alliances, has taken root in the hearts of the American people, where it is treasured up as their political Bible and cannot now be "mocked at" as merely an ancient tradition. Its acceptance has made the nation great, made it respected. If our fidelity to the well-ripened statesmanship of the Father of his Country shall be perpetuated for the next hundred years as in the past, the honor, prosperity, and power of our republic, it may safely be predicted, will light and lead all the nations.

Augustus O. Bacon (Georgia) spoke against the resolution.

It is a question, if we pass this joint resolution, not only of one revolution, but of two revolutions. If we pass the joint reso-

In all cases the United States has annexed only territory ceded by governments having undoubted right to cede, and never from governments of doubtful ownership. They have never instigated revolution to get territory before this case.

The present oligarchy has no right to annex the islands. It is a government that has not the sanction of the people.

It is divesting a race of men of their right to country and government and putting them in a gradual process of extinction. The process has begun and will continue with accelerated speed.

The strength of the government depends on the unity and harmony of thought and action of the people. This results from the unity of race. Discordant races can never harmonize in putting into action political and social institutions. They can never agree completely in devising the best means to effect desired results. They necessarily take different views of governing forces as their intelligence and habits differ. Thus a government composed of different races will demand despotic rule to keep order and force obedience to law. In a republican government it requires the voluntary assent of the people which must come from them, and this can only be where the mass is congenial and act from similar motives and a uniform intelligence.

A mass of such heterogeneous races as now inhabit the Philippine and Hawaiian Islands will always be a source of weakness in a government ruled by the highest and most advanced races in the world. The present government of Hawaii is but an oligarchy of interested men placed in power and kept there by the power of this Republic. Our Government depends on the consent of the governed. The violation of this principle, whether by bribery and corruption or by force, will soon change the character of the mass and of the government. The higher races will not tolerate the less advanced races with the government. They will either purchase their action or force it. In Hawaii there is not one in ten, not more than 5 per cent. of the population, that understands the principles on which our Government is based, and they are incapable of understanding or conforming to them. It might be better in case of annexation to establish for them a despotic proconsular government. It would be better than the irresponsible oligarchy now existing sustained by the power of this Government. The political evil of introducing a mass of semi-barbarism is not any worse than the moral and social.

The annexation of Hawaii would be the entering wedge to a series of troubles in our country which could not be controlled

lution we enter upon a revolution which shall convert this country from a peaceful country engaged in its own concerns into one which shall immediately proceed to intermeddle with the concerns of all the world. We enter upon a revolution which shall change the entire character of the Government, which is a government of equals, a government solely for the benefit of its citizens, into a government in which the flag shall float over communities that we would never agree should be equals with us in this Government.

That is a great enough revolution, Mr. President, but if we pass the joint resolution, we have entered upon a revolution which I consider even greater and more deplorable; that is a revolution where, because the majority has the power, it will in this body surrender the great treaty-making function which the Constitution gives jointly to the President and the Senate, and thus enter upon a field where the will of the majority shall obtain regardless of constitutional restrictions.

On June 30 William B. Bate (Tennessee) opposed the resolution.

Mr. President, there are two important considerations in this question: The policy and the right of annexation.

It is the commencement of indefinite extension of our territory. It will introduce a foreign dissociable element, the most heterogeneous mass that has ever been incorporated and which can never unite with Americans. It will introduce into our system the Roman proconsular service, an element foreign to American sympathies and habits. It will be commercially a disadvantage. They will purchase little and sell much. It is wholly in the interests of Hawaiian planters.

This step will demand a great increase of our army and navy, both results to be avoided if we adhere to our traditional policy. They will increase the expenditure and greatly augment taxation. They will greatly increase a class of men who will contribute nothing and must be paid and supported by the laboring element.

The movement is of doubtful constitutional authority. It has only the unauthorized authority of pressing and interested opportunity. It will increase the number of officers: with it will come paternalism, and, with that, strength to the great center and weakness to the outlying States. This continued process will by degrees wear away the muscular power of our great republic and dwindle it to a shadow and death.

by our people in after years. It may be the beginning of empire; it would be the initiatory of a new theory of government and give impetus to that rule of military power which will result in the control of this Government by militarism.

I shall vote against these resolutions because their adoption will be an abandonment of the Monroe Doctrine and the inauguration of an Oriental policy, with all its consequences, and for which our Government was not designed or constructed and with which it cannot be administered.

I shall vote against these resolutions with the same integrity of motive which led this Congress to assure the world that this war was not for the acquisition of territory. And I shall vote against these resolutions because they are a practical violation of the Constitution when they transfer from the treaty-making power to the Congress a subject-matter now before the Senate in a treaty form and undetermined, and with which the Congress should have no connection until the treaty-making power has definitely acted.

On July 5 George F. Hoar (Massachusetts) supported the resolution.

Mr. President, the trouble I have found with this Hawaiian business is not in the character of the population of the Sandwich Islands, not in their distance from our shores, not in the doubt that we have an honest right to deal with the existing government there in such a matter, but in the nature and character of the arguments by which a great many friends of annexation have sought to support it. Then, too, some very good friends of mine, with whom I have been accustomed to agree all my life, look with an unconquerable apprehension upon this measure, and their judgment of itself would be enough to make me distrust my own opinion.

At the age of four score and eight years, the senior Senator from Vermont [Mr. Morrill], with his intellectual vision undimmed and his natural mental forces unabated, has contributed to this great argument the most powerful statement which has been made on either side of the question.

But, as I have said, the most important argument to my mind against this measure has been the character of the arguments by which it has been supported. If it be true that the passage of these resolves is to commit the United States to such a policy as we have heard advocated on this floor, and as has been advocated in many parts of the country in the press, then



George F Hoar

But this does not quite state the case. The opponents of annexation say we should hold onto Pearl Harbor for all the needs of commerce or of war. So that the question is not whether we are to advance our flag into the Pacific for the first time, but whether it is, on the whole, best that the little scrap of territory and the little handful of people that dwell under the walls and at the gates of our great fortified place shall be under our lawful control or shall be under the control of some foreign country, perhaps a powerful country, perhaps a hostile country.

It is not a question of empire in the Pacific, small or great. It is a question of how far in that little group of islands the boundaries of that empire shall reach—whether we shall be there forever in a strait waistcoat and within stone walls, or whether we shall have about our walls a little breathing room and a little elbow room. And that, Mr. President, is the whole of it.

No; that is not quite the whole of it. We have a relation to this group of islands which we can permit no other power to hold or to share. They are to this extent under our dominion now, that they cannot be permitted to annex themselves or to attach themselves to any foreign country whatever. We exercise already, and we have exercised for two generations, a dominion over Hawaii which makes it impossible for her to contract not only a marriage alliance, but any other special treaty granting favors or exclusive privileges to any other nation on earth.

Gentlemen doubt whether we are not putting a constraint upon this maiden queen of the Pacific when, with the assent of her existing lawful guardians, at least, we propose to take her hand in marriage. But they have no scruple to tell her that although we will not have her she never shall marry anybody else. She shall dwell forever under the walls of our city and under the guns of our fortress, only half a nation, half a people, possessing half manhood and half womanhood only, in the condition of perpetual childhood and tutelage.

Neither do I think, Mr. President, we need to concern ourselves much with the argument of distance. It is true that it is 2,000 miles, or a little more, from San Francisco to Honolulu, but we have learned long ago to annihilate such space. The center of the territory of this Republic, if I am rightly informed, is already in the Pacific Ocean. The water line of Alaska equals the circumference of the globe if it were straightened out. It is 600 miles farther from San Francisco to Kiska—which gentle-

the people of the United States are confronted at this moment with the most serious danger they have encountered in all their history, unless we except the danger that slavery would be extended over the whole country or the danger that the rebellion would succeed.

If this be the first step in the acquisition of dominion over barbarous archipelagoes in distant seas; if we are to enter into competition with the great powers of Europe in the plundering of China, in the division of Africa; if we are to quit our own to stand on foreign lands; if our commerce is hereafter to be forced upon unwilling peoples at the cannon's mouth; if we ourselves are to be governed in part by peoples to whom the Declaration of Independence is a stranger; or, worse still, if we are to govern subject and vassal states, trampling as we do it on our own great charter which recognizes alike the liberty and the dignity of individual manhood, then let us resist this thing in the beginning, and let us resist it to the death.

I do not agree with those gentlemen who think we should wrest the Philippine Islands from Spain and take charge of them ourselves. I do not think we should acquire Cuba, as the result of the existing war, to be annexed to the United States.

I do not think we should undertake to rule, as I just said, over barbarous archipelagoes in distant seas. I do not think we should force our commerce upon unwilling nations at the cannon's mouth. I do not think we should enter into a struggle, lawless and barbarous, for the plunder of dismembered China. I do not think that a navy, on the whole, is the best instrumentality of a friendly intercourse with mankind. I do not think drums and trumpets and shouting and the clapping of hands and stamping of feet are the only arguments to be addressed to the statesmanship of a sane and Christian people.

But, Mr. President, I am satisfied, after hearing and weighing all arguments and much meditating on this thing, that the fear of imperialism is needless alarm.

Here Senator Hoar dwelt upon the small extent of the territory proposed to be annexed, 6,640 square miles, or one 343d part of the national area, and the small population, 100,000, or 13 hundredths of one per cent. of the national population.

We are to get a territory a fortieth part of the size of the State of Texas and a population not equal to that of a third-rate city.

men on the other side tell us ought to answer our purposes as a way station on the road to the east—than it is from San Francisco to Honolulu.

My late colleague and friend, and the friend of all of you, Senator Dawes, is, as I think we all know, a man not much given to flights of fancy. But he uttered in my hearing at a little gathering of twenty or thirty men a few years ago a sentence worthy of being handed down in literature by the side of Mr. Webster's famous passage in his speech on the President's protest. Mr. Dawes said: "If we cannot say of our country, as Mr. Webster said of Great Britain, that her morning drum beat, following the sun, keeping company with the hours, circles the earth in a continuous and unbroken strain of the martial airs of England, we can say that before the sun sets upon Alaska it has risen upon Maine."

The utterances of the Fathers of the Republic, even the utterances of Mr. Webster and his contemporaries of a later time, so far as they speak of dealing with remote regions, have been rendered irrelevant by steam and electricity.

The ocean telegraph, and perhaps the telephone, will have that effect upon distance that the enterprising newspapers of Honolulu under our rule will tell their readers of events in Washington six hours before they happen. [Laughter.]

But it is said that until present conditions change very much the population of these islands must be governed under arrangements established by Congress, and not in the ordinary way of an American State. That is true. But that is in entire accord with the constitutional policy established by our fathers and maintained without any considerable complaint from their day to ours.

Mr. President, we are governing here by Congress now a population in this District of 300,000, I suppose, or thereabouts—larger than all but three or four of the States that formed the Union—simply because we do not deem it wise that the Congress of the United States shall sit where their protection against mobs and public disorders shall depend in times of political excitement upon the authority of any State, and we govern all these people without their being represented, and nobody complains, or thinks that it is a violation of American principles.

We govern Alaska also and we govern the Territories at the will of Congress, and I find no departure from our American principles in saying that this little population living near Pearl Harbor shall be governed as Territories are governed and as the

District of Columbia is governed until they are fitted to come in as a State.

Gentlemen tell us that the possession of the Sandwich Islands will not add to our security, but to our danger in a foreign war. They say that we must maintain a powerful fleet to defend them besides what we already have on our Pacific coast. But I have already suggested an answer to that argument. We settled that question when we acquired by treaty our rights in Pearl Harbor, and it will remain settled until Congress is ready to cede back Pearl Harbor to the Sandwich Islands. If we are to give up Pearl Harbor then there may be room for that argument. If we are to hold onto Pearl Harbor—as nearly every man who has spoken in this debate on the other side says we are—we must fortify it, we must defend it in case of war, and we do not want to run any risk that the power that tries to take it shall be already lawfully entrenched next door.

But I do not put this case upon any such ground. I think the acquisition of Hawaii by the United States is an extension of the domain of peace upon the habitable globe. I hope and expect that we shall come out of the present war, unless we indulge in the folly, as I think it, of entering upon a policy of acquisition and of aggression, after such fashion that no nation, small or great, powerful or weak, will desire to attack us for a hundred years.

Mr. President, we must, of course, have no doubt about the question whether we have an honest right to do this. If we have not, we are not going to steal Naboth's vineyard or to commit under any temptation an act of international dishonor. That is clear. But we have, in the first place, the assent of the Hawaiian Government. We cannot in matters of international dealing commonly go behind that. We would never permit any nation, small or great, who undertook to deal with us, to make the inquiry whether the President and the Senate of the United States did not represent the will of the American people, and there is no possibility for any dealing under public law between nations on public questions which undertakes to go on any other theory.

I agree that in annexing a nation and merging its life with our own we would not take the act of a temporary usurpation in violation of the will of the people. We have heard repeated the charge that the present government in Hawaii was the result of a usurpation countenanced and fostered by the presence of the American forces. I think that argument is refuted by the fact that ever since and during four years when the Presi-

dent of the United States was notoriously in sympathy with the exiled Queen there was neither overthrow nor attempt to overthrow the existing government in Hawaii. The Queen and the Hawaiian monarchy are just as surely things of the past, a nightmare of the past, as are Mr. Cleveland and Mr. Blount and their mugwump followers.

The Americans want it, the government there wants it, the Portuguese want it, and the Hawaiians, to the best of my knowledge, neither know nor care whether they want it or not. They are a perishing people, and their only hope and desire and expectation is that, in the providence of God, they may lead a quiet and undisturbed life, fishing, bathing, supplied with tropical fruits, and be let alone.

They will fall, Mr. President, if we do not prevent it, a prey to Japan, not by conquest, but by immigration. This result all parties agree that we must prevent. Japan is not, according to the opponents of annexation of this body and in the press, to be allowed to get the Sandwich Islands, either by force or by absorption. If that be true, is it better, is it safer, is it more in accordance with the policy of a wise and well-considered peace, to prevent that by annexation than to have hereafter a war of force based on the doubtful principle of international law and the doubtful claim of right to which we must resort if we find that thing going on?

We did not consult the Indians in Texas or in California or in New Mexico or in Alaska when those Territories were taken into the Union. We did not consult the Indians when we declared our own independence.

Mr. President, I believe that this is a contest to be settled now peacefully or to be settled hereafter by force between America and Asia for the possession of this group of islands; that it is a contest between the domain of peace, which is America, and the domain of war, which is Asia. The danger is, as I have said, that there will be an infusion of Japanese and then an attempted annexation to Japan; and there is a more serious danger in undertaking to resist this hereafter by war than there is in preventing it now by the methods and instrumentality of peace.

Mr. President, of the population in 1896 there were 53,726 persons, one-half the entire number, without any regular occupation.

Now, when we are speaking of a great national choice, I prefer to take the opinion as to national destiny of the government and the men who carry on the schools and the men who rescued

the nation from barbarism and cannibalism, and the tradesmen and the fishermen and the laborers and the farmers and the mechanics, rather than the men who are without any occupation at all.

It would be as reasonable to take the vote of the children in an orphan asylum or an idiot school as to what should be done if a conflagration were raging in the street or if a flood were about to sweep away their building, as to consult these simple and helpless people about how to deliver them from this Oriental menace.

It is said they will come in as a State some time. But they will not come in as a State unless they are fit to be a State. If they have got hereafter a population of a million or fifteen hundred thousand of American lineage and American character and American ideals, a population like that of Washington or like that of Colorado, they will come in and we shall welcome them. But, if they are unfit, they will not come in; we never have been in a hurry about this thing. They said that about New Mexico when they made the treaty by which we acquired her fifty years ago. We have not admitted Alaska; we have not admitted the District of Columbia; we have not admitted Arizona. If they get a people there likely to select such men as Mr. Dole or Mr. Thurston or Mr. Damon for Senators and Representatives, they will be a very good people for Statehood and for American citizenship and American sovereignty.

Mr. President, there are two dreams of empire, two conceptions of destiny, two avenues of power presented to the gaze of the American people to-day. One is held out to us in the far East and in the West Indies as the result of military conquest; the other is held out to us in Hawaii by the children of the Puritans, who have redeemed those beautiful islands from barbarism and cannibalism, and show them as the harvest of seventy years of Christian and peaceful labor. The first is that which has been the ruin of the empires and republics of former times. It is that which has brought Spain to her wretched condition to-day. The second allures us in the path we have followed since liberty entered this hemisphere by the gates of Jamestown and of Plymouth, and the little handful of Puritans and Cavaliers came in, who have grown and multiplied until our temple covers a continent and its portals are upon both the seas. One is the dominion over subject people, and the rule over vassal states. It is forbidden to us by our Constitution, by our political principles, by every lesson of our own history and of all history.

The other is the invitation to willing and capable people to share with us our freedom, our self-government, our equality, our education, and the transcendent sweets of civil and religious liberty. In that path we have never yet known failure. Let us tread it, if need be, without fear and without flinching. Let us, if need be, take some risks in the holy cause of liberty. Let the light which illumines the continent shine also upon the sea.

Mr. President, the wise man in that sublimest of poems, the Book of Ecclesiastes, describes to us the decay of human strength and hope in old age. He tells us that "the keepers of the house shall tremble"; that "they shall be afraid of that which is high, and fears shall be in the way." This applies also with a still more terrible and emphatic significance to the disease and decline of states. The country that hath no growth in it hath no hope in it. That people that loses its courage loses with it everything else that is worth having.

We have made in the past acquisitions and additions into our empire to which that of the Hawaiian Islands is but as a drop in a bucket—is but as the dust that hangs upon the scales. We have never been afraid to venture our ship of state upon any voyage or in any sea.

We sailed wherever ship could sail;
We founded many a mighty state;
Pray God our greatness may not fail
Through craven fears of being great.

I think we can find no safer guide than the chart of our own experience. What has been good for us in the past will be good for us again in the future.

Some of our passengers will always be seasick. There will never to them be blue in the sky, or freshness in the gale, or light in the horizon, or hope in the heart. Our brave young country, especially in this Fourth of July season, will not look for its leadership to such counselors. We have never from the beginning looked to such counselors. Our New England prophet and poet¹ has struck for every American heart the note which belongs to the season and the opportunity:

O tenderly the haughty day
Fills his blue urn with fire;
One morn is in the mighty heaven,
And one in our desire.

Mr. President, it is not distance; it is not numbers; it is not
¹ Ralph Waldo Emerson.

vast space by sea or land; it is not hostile or rival nations that we have at this time to dread. It is a departure from American principles. It is the temptation to substitute for our fundamental law of political equality and our fundamental rule of political justice the dream of empire, the greed of gain, the lust of the flesh, and the lust of the eyes, and the pride of life. I would solve this problem which is upon us to-day. I would solve the greater and more dangerous problem which is upon us in the near future by this simple rule:

We will acquire no territory; we will annex no people; we will aspire to no empire or dominion, except where we can reasonably expect that the people we acquire will, in due time and on suitable conditions, be annexed to the United States as an equal part of a self-governing republic.

The joint resolution was passed on July 6, 1898, by a vote of 42 to 21. It was approved by President McKinley on July 8.

CHAPTER VI

ANNEXATION OF THE PHILIPPINES

Sketch of the Filipino Revolution—The Treaty of Paris Provides for the Purchase of the Philippine Islands from Spain—Emilio Aguinaldo Declares Independence of the Philippines—George G. Vest [Mo.] Moves in the Senate a Joint Resolution Against Colonial Government by the United States—Debate: in Favor of Colonial Government, Orville H. Platt [Ct.], Joseph B. Foraker [O.], Henry Cabot Lodge [Mass.], John C. Spooner [Wis.]; Opposed, Senator Vest, George F. Hoar [Mass.], William E. Mason [Ill.], Marion Butler [N. C.], Augustus O. Bacon [Ga.], James H. Berry [Ark.], John W. Daniel [Va.]—Aguinaldo Rises Against the United States—Samuel D. McEnery [La.] Introduces Joint Resolution Disclaiming Permanent Government of Philippines; Senator Hoar Amends Same to Declare No Government at All Except by Consent of Filipinos; Amendment Tabled; Senator Bacon Amends Resolution to Declare Establishment by the United States of Independent Filipino Government; It Is Defeated and the Resolution Is Passed—Subsequent History of the Philippine War—The Issue of Anti-Imperialism in Subsequent Presidential Campaigns.

THE rebellion in the Philippines against Spain arose largely from the enmity of the people toward the monastic orders, which, by their ownership of great tracts of the best land in the islands, and their exemption from taxes, constituted an oppressive monopoly.

The nucleus of a revolutionary organization was afforded by secret societies, composed of anti-clerical Filipinos. The Masonic Order was introduced about 1860, and from its lodges sprang various patriotic secret organizations, one of which, the Philippine League, founded by the patriot and author, Dr. José Rizal, had for its chief purpose the expulsion of the friars. Rizal was expelled from the islands in 1887, and his writings were proscribed. However, the Spanish Governor-General of the Philippines, Primo de Rivera, virtually promised him immunity if he returned, and he did so in 1892. He was arrested almost on his arrival at Manila,

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and convicted of having organized a secret revolutionary society known as the Katipunan. Banished to a remote place in the Philippines, he was permitted in 1896 to set out for Cuba to act as physician for the sufferers from an epidemic there of yellow fever.

At this juncture the Katipunan broke out into open rebellion against Spanish rule, and the authorities seized Rizal on his way to Cuba, and, bringing him to Manila, after a mock trial, shot him on December 30, 1896, as a traitor.

The insurrection centered in the province of Cavité, which was held by the rebels under Andrés Bonifacio, the head of the Katipunan, and Emilio Aguinaldo, its recognized military genius, until the spring of 1897, when, reinforcements having come from Spain to the Spanish general, Lachambre, this officer was able completely to shatter the organized power of the insurgents. The rebel leaders, however, contrived to extort from the Governor-General a compact known as the Treaty of Biacnabat, by which they received half of a promised payment of \$800,000, and were permitted to withdraw from the country. They went to Hong Kong, a British island to the north, and, forming a Filipino Junta, continued their revolutionary plans. Fomented by them, and assisted by the money which had been received under the treaty, a patriotic rising took place in Luzon north of Manila in March, and in Cebú in April. Native soldiers in the Spanish army deserted to the rebels in regiments, but owing to lack of arms the rebellion remained ineffective.

Upon the day that war began between Spain and the United States Aguinaldo appeared in Singapore, and on April 24, 1898, had a conference there with United States Consul-General Pratt, the result of which was that Commodore George Dewey of the Asiatic Squadron of the American Navy arranged for Aguinaldo to follow the squadron to Manila.

On May 1, 1898, Commodore Dewey annihilated the Spanish fleet in the Bay of Manila. Aguinaldo arrived at Cavité on May 19 in the United States dispatch boat *McCulloch*. He had an interview with Dewey, the result

of which was that the Commodore supplied him with arms for the insurgents, whose number was increasing greatly every day by deserters from the Spanish forces, and by volunteers.

By the time General Wesley Merritt arrived with troops from the United States late in July Aguinaldo had retaken the province of Cavité, and, with the aid of Dewey, was investing Manila.

The city was surrendered on August 13, and was held by the American troops, while Aguinaldo and his Filipinos rapidly subdued the various provinces of the islands.

On August 12, the day before the surrender of Manila, a peace protocol was signed between representatives of the Governments of Spain and the United States at Washington, providing that the United States should hold the city and bay of Manila until a treaty of peace, negotiations concerning which were arranged, should be signed between the warring nations. On October 31, after the Peace Commission had been in session at Paris for a month, the United States commissioners, under orders from the Government at Washington, demanded the cession of the Philippines. In the treaty, which was signed on December 10, 1898, Spain ceded the entire archipelago of the Philippine Islands to the United States, and our Government agreed to pay Spain \$20,000,000.¹

Aguinaldo had no anticipation of such a disposition of the Philippines. Indeed, before the peace protocol was signed, he had organized a Filipino Government (on June 12), promulgated a provisional constitution (on June 23) in which independence was announced as the object of the revolution, and (on August 6) appealed to the nations of the world for recognition of this independence, and of the belligerency of his government, basing his claims on his conquest of the fifteen chief Filipino provinces.

¹ Thomas B. Reed [Me.], Speaker of the House, who was opposed to the annexation of the Philippines, declared that we had purchased the 10,000,000 inhabitants of the islands—"yellow-bellies" he called them—at \$2 a head.

ACQUISITION OF TERRITORY

SENATE, DECEMBER 10, 1898-FEBRUARY 14, 1899

Anticipating the action of the Peace Commission on the very day of the Treaty of Paris, George G. Vest (Missouri) moved the following joint resolution in the Senate:

That under the Constitution of the United States no power is given to the Federal Government to acquire territory to be held and governed permanently as colonies.

The colonial system of European nations cannot be established under our present Constitution, but all territory acquired by the Government, except such small amount as may be necessary for coaling stations, correction of boundaries, and similar governmental purposes, must be acquired and governed with the purpose of ultimately organizing such territory into States suitable for admission into the Union.

Senator Vest supported the resolution on the 12th. When eminent statesmen, he said, were ridiculing the "swaddling clothes" made by Washington and Madison for the country, and revolutionizing a system of government under which we had grown great and prosperous, it was high time to examine into the powers of Congress in regard to the acquisition and government of new territory, and to ask whether the American people were ready to accept the new evangel of imperialism.

What is the colonial system against which our fathers protested? It is based upon the fundamental idea that the people of immense areas of territory can be held as subjects, never to become citizens; that they must pay taxes and be impoverished by governmental exaction without having anything to do with the legislation under which they live.

How can it be true that all governments derive their just powers from the consent of the governed when millions of human beings are held without their consent as mere chattels, to be disposed of as the sovereign power of the mother country may choose?

But, Mr. President, passing from this historic argument, which seems to me unanswerable, the highest tribunal in the

United States, the Supreme Court, has settled this question by a unanimous opinion, when the ablest lawyers in the country were upon the bench. I am now about to refer to a decision which I know will revive bitter memories unless those memories be happily eliminated by recent events. In the case of *Dred Scott* against Sanford, Chief Justice Taney, delivering the opinion of the court, which constituted the opinion of seven of the justices out of nine, effectually disposed of the question as to whether the United States could hold colonies without the intention or prospect of forming them into States and admitting them into the Union.

The portion of the opinion that I shall now ask the Secretary to read was acquiesced in by the nine justices of that court, including Justices McLean and Curtis, who disagreed with the majority in regard to the slavery question, but acquiesced in the opinion that this Government had no right to adopt the colonial system of Europe.

Here Senator Vest repeated the argument already given by Representative Dinsmore in the case of the annexation of Hawaii (see page 186).

Mr. President, I assert that the fundamental idea of our American institutions is citizenship to all within the jurisdiction of the Government, except to the Indian tribes. The Constitution makes an exception as to the Indians because their position was *sui generis* and entirely anomalous. As the Supreme Court said in the Cherokee-Georgia case, the Indian tribes are independent dependencies. We have recognized their right to their own tribal customs and institutions, and at the same time put upon them non-intercourse laws, and exercised by legislation the power of control.

With that single exception, all the people of the United States within its jurisdiction are to be citizens, and, whatever may be said in regard to the older inhabitants of new territory that may be acquired by this country, it is beyond any question, under the terms of the fourteenth amendment, that all children born within our jurisdiction, no matter what the condition of the parent is as to citizenship, are made citizens of the United States and of the State in which they reside.

NELSON W. ALDRICH [R. I.].—Does that apply to the Chinese?

SENATOR VEST.—Most unquestionably; and the Supreme Court so decided in March last in the case of *Woo Chin*, the

opinion being delivered by Justice Gray, of Massachusetts. The Supreme Court in that case not only decided that the child of Chinese parents born in this country becomes a citizen, but that Congress cannot take away the right of citizenship conferred by the Constitution on account of birth. If this is not settled by adjudication, nothing can be settled by the Supreme Court of the United States.

To return to the requirements of the fourteenth amendment. When we take jurisdiction over millions of acres of what is now foreign soil and bring under our jurisdiction millions of human beings, whatever may be the case as to the citizenship of the older inhabitants of those areas, their children born under the jurisdiction of the United States become citizens, entitled to all the immunities and privileges of citizenship. If this amendment does not provide this, it is absolutely nugatory and void, and so also is the fifteenth amendment, which provides that all citizens shall be entitled to the right of suffrage.

But, Mr. President, it is said that we have abandoned by precedent the application of the doctrine announced in this resolution, and that we have by legislative action admitted the right of the United States to acquire by purchase large tracts of territory to be held as colonies. I emphatically, distinctly, and without qualification deny that assertion.

When did we admit territory to be held as colonies? Was the Northwestern Territory brought under the jurisdiction of the United States in order to be held as a colony? The author of the Declaration of Independence was the author of the ordinance of 1784, called the ordinance of 1787, and in it provision was made that as soon as 5,000 white male inhabitants should be found in that territory they should have the right to elect a territorial legislature and pass laws for their own government.

Who will be reckless enough to say that Thomas Jefferson, who penned the words "All governments derive their just powers from the consent of the governed," would have degraded and branded with infamy that princely gift of Virginia to the country by inserting in it the hateful principle of the colonial system of Europe?

Did we depart from the doctrine I am here to-day advocating with all my strength when we admitted Louisiana, during the presidency of Jefferson, to the jurisdiction of the United States? In the act of cession from France is found a provision that as soon as possible the inhabitants of that territory shall be made citizens of the United States and the territory itself admitted as a State of the Union.

Did we give up the doctrine when Florida was purchased from Spain and brought within the jurisdiction of the United States? In the act of cession from Spain is contained the same provision that is found in the Louisiana purchase.

But we are told by eminent statesmen that when Alaska came into the Union we surrendered this whole question. When Russia ceded Alaska to the United States the same provision was put in the act of cession, that the inhabitants of Alaska as soon as possible should become citizens and Alaska be admitted as a State of the Union.

Mr. Justice Harlan, delivering the opinion of the Supreme Court in what is known as the Alaska case (*steamer Coquitlam vs. United States*), declared that Alaska was a territory of the United States.

When, where, how have we ever surrendered the great doctrine that this is a confederation of sovereign States and that there are known to the Constitution but four forms of government—first, the National Government, then the State government, then the territorial government, and then the District of Columbia? It is not possible to point out any other form of government under the Constitution.

But, Mr. President, I come now to the great, overwhelming, and crucial argument made by the expansionists in favor of this new system. Driven in desperation by the earlier history of our country and by the decisions of the Supreme Court to their last alternative, they claim that the territories, whether organized or unorganized—and newly acquired—are not subject to the Constitution of the United States, and that the Constitution applies alone to the States of the Union. They quote in support of this monstrous proposition—for I can denominate it nothing else—the great name and authority of Daniel Webster. I am sorry to say that Mr. Webster, for whose learning and ability I have the highest respect, permitted himself, in an acrimonious debate with John C. Calhoun on the government of the territory acquired from Mexico in 1848, to say that the Constitution did not apply to the territories.

I repeat that I have the highest respect for Mr. Webster as a lawyer and statesman, but the proposition he advanced is so monstrous as not to permit discussion. To say that the citizens of a Territory under the jurisdiction of the United States are excluded from the provisions of the Bill of Rights is to say that they are at the mercy of Congress without limitation; that Congress can prohibit the free exercise of religion; take away the right of trial by jury; take away immunity from unreason-

able search and seizure, and destroy all the great rights guaranteed by the Bill of Rights to all the people of the United States. For what did our fathers struggle?

For what did their descendants labor and toil if this monstrous proposition be now true? Fortunately for the country, and for human rights and constitutional liberty, the Supreme Court of the United States has, in repeated adjudications, settled this question, finally and forever against Mr. Webster's position. As early as January, 1820, Chief Justice Marshall, in delivering the unanimous opinion of the Supreme Court, in the case of *Loughborough*, decided emphatically that the term "United States" in the Constitution meant the States and the Territories and every foot of the soil over which the flag of our country floats.

Yet, despite this decision, it is now told us that one rate of taxation can prevail in the Territories and another in the States, notwithstanding the provision of the Constitution that all duties, imposts, and excises shall be uniform throughout the whole United States.

In 101 United States, in the case of *National Bank v. The County of Yankton*, Chief Justice Waite, in delivering the unanimous opinion of the court, said:

All territory within the jurisdiction of the United States not included in any State must necessarily be governed by or under the authority of Congress. The Territories are but political subdivisions of the outlying dominion of the United States. Their relation to the general Government is much the same as that which counties bear to the respective States, and Congress may legislate for them as a State does for its municipal organizations. The organic law of a Territory takes the place of a constitution as the fundamental law of the local government. It is obligatory on and binds the Territorial authorities; but Congress is supreme, and for the purposes of this department of its governmental authority has all the powers of the people of the United States, except such as have been expressly or by implication reserved in the prohibitions of the Constitution.

It may do for the territories what the people, under the Constitution of the United States, may do for the States.

Mr. President, now what can the people of the United States do for a State? Can they take away from the people of a State the right of trial by jury, or of habeas corpus, or immunity from illegal arrest and search and seizure, or take away from them the right of religious opinion?

I shall not weary the Senate by reading other opinions, but I will refer to them, and Senators can satisfy themselves. In the case of *Thompson vs. Utah*, decided in 170 United States, the Supreme Court unanimously declared that the right of trial by

jury in criminal cases to the people of a Territory could not be taken away by Congress and that the powers of Congress as to Territories were limited and defined by the Constitution of the United States and not unrestricted. They made the same decision in two other cases, the *American Publishing Society vs. Fisher*, 166 United States, 464, and *Crandall vs. Nevada*, 6 Wallace, 35. There can no longer be a question, nor the shadow of a question, that the Congress of the United States is as to the Territories limited in its action by the Federal Constitution.

Mr. President, I have not controverted, and do not propose to controvert, the power of the Federal Government to acquire and govern territory, but I do deny that territory can be acquired to be held as colonies, peopled by millions of subjects not citizens, with no hope or prospect of its ever becoming a State of the Union. I may be answered by the statement that this is not a practical question, because Congress has exclusive jurisdiction as to the admission of States, and it may hold this territory indefinitely without any idea of its ever coming into the Union; in other words, establish under cover and by fraud upon the Constitution the colonial system which the Constitution never contemplated.

I will not insult my brother Senators by supposing that they would thus evade the spirit and letter of the Constitution, and, when believing that the colonial system is not possible in this country, would vote to take in vast tracts of land inhabited by barbarians, intending never to allow this territory to come in as a State, but to hold it for commercial advantages alone, in violation of the fundamental law of the land. Whenever the Congress of the United States becomes so degraded as to do this, it matters little what occurs in the future. It is simply a question of time when the disastrous end will come.

Sir, we are told that this country can do anything, Constitution or no Constitution. We are a great people—great in war, great in peace—but we are not greater than the people who once conquered the world, not with long-range guns and steel-clad ships, but with the short sword of the Roman legion and the wooden galleys that sailed across the Adriatic. The colonial system destroyed all hope of republicanism in the olden time. It is an appanage of monarchy. It can exist in no free country, because it uproots and eliminates the basis of all republican institutions, that governments derive their just powers from the consent of the governed.

I know not what may be done with the glamor of foreign conquest and the greed of the commercial and money-making

classes in this country. For myself, I would rather quit public life and would be willing to risk life itself rather than give my consent to this fantastic and wicked attempt to revolutionize our Government and substitute the principles of our hereditary enemies for the teachings of Washington and his associates.

ORVILLE H. PLATT [Conn.].—Mr. President, I am not prepared to-day to speak on the joint resolution and answer the claims made by the Senator from Missouri, but, lest my silence should be misconstrued, I wish to state that I do not recognize the doctrine as announced in a dictum of the Supreme Court in a case in which, as the Senator says, all the rest of the decision has been set aside by the arbitrament of war, nor do I acquiesce in the law as stated by the Senator from Missouri.

I believe, Mr. President, that the right to acquire territory is an inherent right in the nation. That has been the doctrine of the nation ever since the Louisiana treaty was ratified and confirmed. It has been recognized by the courts that the right to acquire territory is an inherent right, because we are a nation, a right of sovereignty, and it has no limitations either in the Constitution or elsewhere. I shall hope to show, before action is taken upon the joint resolution, that the United States is not limited in its right to acquire territory by any restriction whatever; that if we are fighting a war and conquering territory, we need not stop as we go along and have our armies cease operations until there has been some declaration somewhere that we are going to make States of that territory.

SENATOR GEORGE F. HOAR [Mass.].—I desire to ask my honorable friend, who stated what he thinks, whether he believes we have the right, under the Constitution, permanently to govern subjects of vassal states, or people who have no constitutional rights of their own?

SENATOR PLATT.—I believe that our power to govern any province, country, or land which we have the right to acquire is full and plenary, and is given by that clause in the Constitution which says:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

On December 21, 1898, the President sent a letter of instructions to the Secretary of War that the United States military government of Manila city and bay be extended as soon as possible over the islands.

In performing this duty the military commander of the United States is enjoined to make known to the inhabitants of the Philippine Islands that in succeeding to the sovereignty of Spain, in severing the former political relations of the inhabitants, and in establishing a new political power, the authority of the United States is to be exerted for the security of the persons and property of the people of the islands and for the confirmation of all their private rights and relations. It will be the duty of the commander of the forces of occupation to announce and proclaim in the most public manner that we come, not as invaders or conquerors, but as friends, to protect the natives, in their homes, in their employments, and in their personal and religious rights. All persons who, either by active aid or by honest submission, cooperate with the Government of the United States to give effect to these beneficent purposes will receive the reward of its support and protection. All others will be brought within the lawful rule we have assumed, with firmness if need be, but without severity so far as may be possible.

It should be the earnest and paramount aim of the military administration to win the confidence, respect, and affection of the inhabitants of the Philippines by assuring to them in every possible way that full measure of individual rights and liberties which is the heritage of free peoples, and by proving to them that the mission of the United States is one of benevolent assimilation, substituting the mild sway of justice and right for arbitrary rule. In the fulfillment of this high mission, supporting the temperate administration of affairs for the greatest good of the governed, there must be sedulously maintained the strong arm of authority to repress disturbance and to overcome all obstacles to the bestowal of the blessings of good and stable government upon the people of the Philippine Islands under the free flag of the United States.

This proclamation caused the relations between the Filipino and American troops in the Philippines to become greatly strained, and in Washington as well as Manila it was felt that a serious outbreak on the part of Aguinaldo might be expected at any moment.

On January 9, 1899, Senator Hoar supported the joint resolution. He announced that it was with pain he disagreed with his party associates.

I am one of those men who believe that little that is great

or good or permanent for a free people can be accomplished without the instrumentality of party. And I have believed religiously, and from my soul, for half a century, in the great doctrines and principles of the Republican party. I stood in a humble capacity by its cradle. I do not mean, if I can help it, to follow its hearses. I am sure I render it a service; I am sure I help to protect and to prolong the life of that great organization, if I can say or can do anything to keep it from forsaking the great principles and doctrines in which alone it must live or bear no life. I must, in this great crisis, discharge the trust my beloved Commonwealth has committed to me according to my sense of duty as I see it. However unpleasant may be that duty, as Martin Luther said, "God help me. I can do no otherwise."

I am to speak for my country, for its whole past and for its whole future. I am to speak to a people whose fate is bound up in the preservation of our great doctrine of constitutional liberty. I am to speak for the dead soldier who gave his life for liberty that his death might set a seal upon his country's historic glory. I am to speak for the Republican party, all of whose great traditions are at stake, and all of whose great achievements are in peril.

Certainly, Mr. President, no man can ever justly charge me with a lack of faith in my countrymen, or a lack of faith in the principles on which the Republic is founded. I have, in my humble way, defended the character of the American people, their capacity for self-government, the character of the great legislative bodies through which that government is exercised, whenever and by whomsoever assailed. I do not distrust them now. But the strongest frame may get mortal sickness from one exposure; the most vigorous health or life may be destroyed by a single drop of poison, and what poison is to the human frame the abandonment of our great doctrine of liberty will be to the Republic.

Professor Creasy, in his "Six Decisive Battles of the World," well says:

There has never been a republic yet in history that acquired dominion over another nation that did not rule it selfishly and oppressively. There is no single exception to this rule either in ancient or modern times. Carthage, Rome, Venice, Genoa, Florence, Pisa, Holland, and republican France, all tyrannized over every province and subject state where they gained authority.

My excellent friend, the honorable Senator from Connecticut, taunts me with doubt and fear. Well, Mr. President, I do

not think that I have been, am now, or am likely to be in a condition of much doubt in regard to this transaction. I am compelled to part company with the Senator. But I am very confident I am in the company of the framers of the Constitution, the signers of the Declaration, the men of the Revolution, and the great statesmen and lovers of liberty of every generation since until six months ago. As to fear, I will return the kindness of my honorable friend by suggesting to him that there is a fear, which I hope some time may possess him, which is defined by the highest authority as the beginning of wisdom. It is the fear of the Lord; the fear of doing wrong; the fear of usurping power; the fear of violating trust; the fear of violating the highest trust ever committed to mortal man—a restrained, delegated, and specific political power intrusted to him for the public ends, for the service of liberty and the benefit of the people.

The question before us is the greatest, I believe, that has been discussed among statesmen since the origin of government—certainly it is the greatest question ever discussed in this chamber from the beginning of our Government. It is: Have we the right, as doubtless we have the physical power, to enter upon the government of ten or twelve million subject people without constitutional restraint? Of that question the Senator from Connecticut takes the affirmative. And upon that question I desire to join issue.

Mr. President, I am no strict constructionist. I believe this country to be a nation, a sovereign nation. I believe Congress to possess all the powers which are necessary to accomplish under the most generous and liberal construction the great objects which the men who framed the Constitution and the people who adopted it desired to accomplish by its instrumentality. The men by whose hands Connecticut signed the Declaration of Independence, who in her behalf helped frame the Constitution, who represented her in either House of Congress in the great Administrations of Washington and John Adams, were of that way of thinking. But the man of them most thoroughgoing and extreme, Hamilton himself, Ellsworth himself, or Adams himself, would have looked with amazement, if not with horror, upon the doctrines asserted by the honorable Senator from Connecticut to-day.

Senator Hoar affirmed that every constitutional power is limited to the purposes of the Constitution as declared in its preamble.

Now, the liberal constructionists claim that everything which is done to accomplish any of these purposes, unless expressly prohibited, may be constitutionally done by the lawmaking power. And in that I agree with them.

The strict constructionist has claimed from the time of Madison that these objects can be accomplished only after ways and fashions expressly described in the Constitution or necessarily implied therein. And in that I disagree with him.

But when the Senator from Connecticut undertakes to declare that we may do such things not for the perfect union, the common defence, the general welfare of the people of the United States, or the securing of liberty to ourselves and our children, but for any fancied or real obligation to take care of distant peoples beyond our boundaries, not people of the United States, then I deny his proposition, and tell him he can find nothing either in the text of the Constitution or the exposition of the Fathers, or the judgments of courts from that day to this, to warrant or support his doctrine.

Further, the first article of the Constitution declares: "All legislative powers herein granted shall be vested in a Congress of the United States." What becomes, in the light of that language, of the Senator's repeated assertion that powers not denied may be so exercised? Is not legislative power a power of sovereignty? Therefore, according to the Senator's logic, every power of legislation that any foreign government—legislative, constitutional, limited, or despotic—may exercise may be exercised by us. We have heard of limited monarchies, constitutional monarchies, despotisms tempered by assassination; but the logic of the Senator from Connecticut makes a pure, unlimited, untempered despotism without any relief from assassins.

The question with which we now have to deal is whether Congress may conquer and may govern, without their consent and against their will, a foreign nation, a separate, distinct, and numerous people, a territory not hereafter to be populated by Americans, to be formed into American States, and to take its part in fulfilling and executing the purposes for which the Constitution was framed, whether it may conquer, control, and govern this people, not for the general welfare, common defence, more perfect union, more blessed liberty of the people of the United States, but for some real or fancied benefit to be conferred against their desire upon the people so governed or in discharge of some fancied obligation to them, and not to the people of the United States.

I declare it can be demonstrated by the whole contempora-

neous history and by our whole history since until within six months that it is a power which our fathers and their descendants have ever abhorred.

The idea that our fathers intended to clothe the Federal Government with such a sovereignty is as repugnant to me as the idea that because God created man in His own image He intended that he should be at liberty to commit murder or robbery or any form of bestiality because He had clothed him with the physical power to accomplish it.

*Expositio contemporanea maxime valet.*¹ The great contemporaneous exposition of the Constitution is to be found in the Declaration of Independence. Over every clause, syllable, and letter of the Constitution the Declaration of Independence pours its blazing torchlight. The same men framed it. The same States confirmed it. The same people pledged their lives, their fortunes, and their sacred honor to support it. There are undoubtedly, among its burning and shining truths, one or two which the convention that adopted it were not prepared themselves at once to put into practice. But they placed them before their countrymen as an ideal moral law to which the liberty of the people was to aspire and to ascend as soon as the nature of existing conditions would admit. Doubtless slavery was inconsistent with it, as Jefferson, its great author, has in more than one place left on record. But at last in the strife of a great civil war the truth of the Declaration prevailed and the falsehood of slavery went down, and at last the Constitution of the United States conformed to the Declaration and it has become the law of the land, and its great doctrines of liberty are written upon the American flag wherever the American flag floats. Who shall haul them down?

Now, Mr. President, it is quite significant that my honorable friend from Connecticut, with his customary candor and logical consistency, finds it necessary in support of his present position to assail and to deny that doctrine of the Declaration upon which our fathers based their right to make it and the right of the people of the United States to be a nation at all. I asked him whether, in his judgment, governments derive their just powers from the consent of the governed; and he replied: "From the consent of some of them." I do not understand that in conquering and subjugating and governing this people he proposes to get the consent of any of them. So his modified Declaration of Independence will not quite help him out. He

¹ Contemporaneous opinion is of the highest worth.

tries to find a halfway stepping stone before he gets from the ancient path of republican liberty which the fathers trod down into this modern swamp and cesspool of imperialism. But he has got to make the entire plunge without stopping on the way.

Mr. President, the persons who favor the ratification of this treaty without conditions and without amendment differ among themselves certainly in their views, purposes, and opinions, and as they are so many of them honest and well-meaning persons, we have the right to say in their actual and real opinions. In general, the state of mind and the utterance of the lips are in accord. If you ask them what they want, you are answered with a shout: "Three cheers for the flag! Who will dare to haul it down? Hold on to everything you can get. The United States is strong enough to do what it likes. The Declaration of Independence and the counsel of Washington and the Constitution of the United States have grown rusty and musty. They are for little countries and not for great ones. There is no moral law for strong nations. America has outgrown Americanism."

Mr. President, when I hear from some of our friends this new doctrine of constitutional interpretation, when I hear attributed to men in high places, counselors of the President himself, that we have outgrown the principles and the interpretation which were sufficient for our 13 States and our 3,000,000 of people in the time of their weakness, and by which they have grown to 75,000,000 and 45 States, in this hour of our strength, it seems to me these counselors would have this nation of ours like some prosperous thriving youth who reverses suddenly all the maxims and rules of living in which he has been educated and says to himself: "I am too big for the Golden Rule. I have outgrown the Ten Commandments. I no longer need the straight waistcoat of the moral law. Like Jeshurun, I will wax fat and kick."

Mr. President, if the United States forsake this doctrine of the fathers, who shall take it up? Is there to be no place on the face of the earth hereafter where a man can stand up by virtue of his manhood and say, "I am a man"?

In general, the friends of what is called imperialism or expansion content themselves with declaring that the flag which is taken down every night and put up again every morning over the roof of this Senate Chamber, where it is in its rightful place, must never be taken down where it has once floated, whether that be its rightful place or not—a doctrine which I shall have occasion to say before I get through is not only with-

out justification in international law, but if it were implanted there would make of every war between civilized and powerful nations a war of extermination or a war of dishonor to one party or the other.

If you cannot take down a national flag where it has once floated in time of war, we were disgraced when we took our flag down in Mexico and in Vera Cruz, or after the invasion of Canada.

I have made a careful analysis of the constitutional argument of the Senator from Connecticut. He says:

First. That the United States is a nation, a sovereign;

Second. That as a nation it possesses every sovereign power not reserved in the Constitution to the States or the people;

Third. That the right to acquire territory was not reserved, and is therefore an inherent sovereign right;

Fourth. That it is a right upon which there is no limitation, and in regard to which there is no qualification;

Fifth. That in the right to acquire territory is found the right to govern it;

Sixth. That this right to govern it is also a sovereign right; and

Seventh. That it is a right without constitutional limit.

The Senator from Connecticut proceeds to establish these propositions by citations from decisions of the Supreme Court; from Mr. Webster; from text writers, and from legislative precedents. Not one of these in the least helps him.

From these postulates the Senator reaches the conclusion that we have a right to conquer, hold, and govern a subject people of ten millions, without any constitutional restraint, such people being entitled to no constitutional rights, but subject to the uncontrolled will of the American Congress.

He says that he has faith in the Declaration of Independence. That declares that all men are created equal, and that governments derive their just powers from the consent of the governed, which he interprets to mean "from the consent of some of the governed," although, as I think I have said, I do not find that any of them are expected to consent in this case;

That he wishes I had the same faith in the Declaration of Independence that the fathers had;

That he prays that the sound of the liberty bell from the tower of Independence Hall, still ringing in his ears, may proclaim liberty to regions never dreamed of by the Fathers.

That proclamation he will make by turning our guns and bayonets, if need be, upon the people of the Philippine Islands,

compelling them to submit to a government whose powers, just or unjust, are not to depend upon their consent, compelling them to submit to taxation without representation, and depriving them forever of the equality which the Declaration of Independence, in which he still has faith, declares they were created.

The Senator thinks he finds a justification of his doctrine in the constitution of Massachusetts, which does not permit criminals or persons who cannot read or write to vote;

In the constitutional provision by which Congress exercises exclusive jurisdiction over the District of Columbia;

In the Louisiana treaty;

In the government of Territories before they become States; and

In the acquisition and government of Alaska.

Having completed this argument, my honorable friend from Connecticut joins his fellow expansionists in their enthusiastic chorus, reads me a lesson on fear and doubt and seeing lions in the path, and ends with a pious prayer for the faith and courage of the Fathers. The great doctrines of the Declaration and of the Constitution, which, I think, are lions in the path, he says are chained now, and that he can go quietly by them to his Malay Castle Beautiful in the distant Oriental seas.

He does not say what fathers. But I suppose, from his doctrine, he means Father Lord North, and Father George III, and Father Hutchinson, and Father Tryon, and the Tory fathers of Revolutionary times, for they are the only persons having any connection with the history of this country who ever believed one of his doctrines. He certainly does not mean Father George Washington, Father Thomas Jefferson, Father John Adams, Father Benjamin Franklin, Father Oliver Ellsworth. Their faces were all set inflexibly against his constitutional doctrines and his moral theories.

The constitutional argument for slavery was ten times as strong as the argument of the Senator from Connecticut. The slave master said he owned men for their good. The Senator from Connecticut proposes to own nations for their good. But the slave property had come down to the slave owner from his fathers.

To the constitutional doctrine of the Senator from Connecticut I desire to oppose mine. It is the doctrine on which I have acted and on which the party to which I belong has acted during the whole of my public life.

The sovereignty which can be exercised by the nation as a unit is only that which is necessary for accomplishing the pur-

poses of the Constitution, and must be either expressly granted therein or necessary or convenient, in the judgment of Congress, to accomplish the purposes expressly declared therein.

All other sovereignty is reserved to the States or to the people.

The power to conquer alien peoples and hold them in subjugation is nowhere expressly granted, and nowhere implied as necessary for the accomplishment of the purposes declared by the Constitution.

It is clearly shown to be one that ought not to be exercised by anybody—one that the framers of the Constitution thought ought not to be exercised by anybody—

1. Because it is immoral and wicked in itself.

2. Because it is expressly denied in the Declaration of Independence, the great interpreter and expounder of the meaning of the Constitution, which owes its origin to the same generation and largely to the same men.

3. It is affirmed that it is immoral and unfit to be exercised by anybody—in numerous instances by contemporary State constitutions and the contemporary writers and authorities on public law, who expressed the opinion of the American people in that generation who adopted the Constitution as well as of the men who framed it.

The power to hold property is implied, whether that property be land or chattels. It exists because—

1. It is essential to the accomplishment of the purposes of the Constitution. That is undoubtedly as true of the right to acquire and hold property in land as other property.

2. The power also is clearly affirmed by the letter of the Constitution, Article IV, section 3.

This power to dispose of the territory or other property belonging to the United States, and to make all needful rules and regulations respecting it, and the power implied from that provision, to acquire and hold territory or other property, like other constitutional powers, is a power to be exercised only for constitutional purposes. We have no more right to acquire land or hold it, or to dispose of it for an unconstitutional purpose than we have a right to fit out a fleet or to buy a park of artillery for an unconstitutional purpose.

One of the constitutional purposes is the enlargement of the country by the admission of new States, and therefore Congress may lawfully acquire, hold, and dispose of territory with reference to the accomplishment of that great constitutional purpose, among others. It may also acquire adjoining or out-

lying territory, dispose of it, make rules and regulations for it for the purposes of national security and defence, although it may not be expected that the territory so acquired, held, and disposed of shall ever come into the Union as a State. That is, as many people think, the case of Hawaii.

Now, the disposing of and the making rules and regulations for territory acquired for either of these purposes necessarily involve the making laws for the government of the inhabitants—forever, if the territory is not to come in as a State, or during the growing and transition period if and until it shall come in as a State.

But, Mr. President, it is to be observed, and it should not be forgotten, that all this is a constitutional provision which looks chiefly at the land and territory as mere property. And it applies, so far as its terms and its general spirit and purpose are concerned, equally to public lands within a State as to those which are without it.

The framers of the Constitution were not thinking mainly and chiefly, when they enacted that clause, of lawmaking, of the government of men, of the rights of citizenship. They were thinking of public property. Two things about this clause are quite significant. One is that it is not contained in the article which gives Congress general legislative powers, but is sandwiched in between the section providing for the admission of new States and the section providing for guaranteeing to every State a republican form of government, showing that they were not thinking of conferring a general legislative power over the inhabitants, and were only thinking, so far as the inhabitants of a territory were concerned, of the transition or expectant period while they were awaiting admission to statehood. And, Mr. President, you are not now proposing to acquire or own property in the Philippines with dominion as a necessary incident; you are not thinking of the ownership of land there. You propose now to acquire dominion and legislative power and nothing else. Where in the Constitution is the grant of power to exercise sovereignty where you have no property?

Now, Mr. President, the Senator from Connecticut undertakes to prove that we violate the principles of constitutional liberty and public law to which we appeal, and the principles of the Declaration of Independence which we invoke as interpreters of the Constitution, by saying: "Oh, you govern the people of the District of Columbia against their will."

Well, Mr. President, if it were true that our fathers, in dealing with 10 miles square, had inadvertently or inconsistently

neglected the great doctrines and safeguards of human liberty, I think we should govern ourselves in our public conduct by the grand general rule and not by the little, narrow, contracted exception.

But there is no exception. The District of Columbia, from the necessities of the case, must be within the control of the National Government, whose seat is here. You cannot have with safety a mob, if there be one, disposed to break the windows of this Capitol—a population who in times of turbulence or of civil war or of great and bitter political strife are under another authority than that of the Congress itself. Suppose at the outbreak of the Civil War Virginia and Maryland had possessed their ancient jurisdiction over this little territory!

The Senator from Connecticut cites the acquisition of Alaska as a violation of the doctrines of the Declaration of Independence, and as affording a precedent for what he defends—the organization of a despotism over 10,000,000 people.

Mr. President, the acquisition of Alaska was defended by Charles Sumner, intrepid advocate and martyr of liberty, to whom the Declaration of Independence was as another gospel. The difference between his purposes and those of the men who defend this new policy is apparent. The closing sentence of his great speech on the cession of Russian America, made in executive session and made public by order of the Senate, covering 170 pages in his collected works, sets forth the benefit which its acquisition by the United States will confer upon Alaska:

But your best work and most important endowment will be the republican government which, looking to a long future, you will organize, with schools free to all, and with equal laws, before which every citizen will stand erect in the consciousness of manhood. Here will be a motive power without which coal itself is insufficient. Here will be a source of wealth more inexhaustible than any fisheries. Bestow such a government and you will give what is better than all you can receive, whether quintals of fish, sands of gold, choicest fur, or most beautiful ivory.

Is it true, my honorable friend from Connecticut, that before constitutions and before legislators all men are created equal, or is it true only of some of them?

Is it true that they are endowed by their Creator with certain inalienable rights? Or is it true only of some of them?

Is it true that among those rights are life, liberty, and the pursuit of happiness? Or are these for some of them only?

Is it true that governments derive their just power from the consent of the governed? Or is it from the consent of only some of them?

Does Connecticut, who voted the other way in 1776 and in 1787, vote that way now?

Is it true that liberty-loving Vermont, who up to this moment has never uttered a thought or spoken a word or given a vote but for freedom, is to repudiate these golden utterances now? Why, Mr. President, I should think the insulted eagle would forsake her mountains if it were reported that her vote had been cast to trample under foot these mighty doctrines of liberty.

Are the thought and the spirit to prevail, and the interpretation we are to give the great document that which secures liberty to the people of the United States, or to people everywhere where the flag floats?

Are you to take the spirit which maketh life, or the letter which killeth in this hour of great national temptation in one of the greatest actions and greatest eras in all history?

When you raise the flag over the Philippine Islands as an emblem of dominion and acquisition you take it down from Independence Hall.

A year ago last December the President of the United States sent a message to Congress. In that message he said:

I speak not of forcible annexation, because that is not to be thought of, and under our code of morality that would be criminal aggression.

President McKinley, when he spoke, was not thinking even of honor or of power, inspiring and alluring as are honor and power. He placed himself and placed the American people on the stern, enduring, and perpetual rock of righteousness; that forcible annexation is not to be thought of; under our code of morality that would be criminal aggression.

Who shall haul him down? Who shall haul down the code? Who shall haul down the President?

Mr. President, that rock is like the rock of the Word—

Whoever shall fall on this stone shall be broken; and on whomsoever it shall fall, it will grind him to powder.

There are other things found in this Declaration which the Senator from Connecticut wishes I understood as the fathers did, which I commend to his most respectful attention. In enumerating the wrongs inflicted upon this people by George III, the Declaration says that he "refused to pass laws for the accommodation of large districts of people unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only."

And now my honorable friend says that the same men who set their hands to that Declaration, and pledged their lives, fortunes, and sacred honor to its support, proceeded twelve years after to establish a government on which they conferred the power, exercised by George III, to destroy the right of representation in the legislature, to govern a people without it, and to forever extinguish and trample out that inestimable right, formidable to tyrants only. And not only that, but he is about, as I understand him, to proceed to vote to do it.

Further, our fathers in their terrible arraignment and indictment of the King for using these sovereign powers, which the Senator now claims belong to and are to be used by the President and Congress of the United States, says that the King had "made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries"; and yet he proposes to make judges for 12,000,000 people dependent on the will of the President only for their tenure of office, and on the will of Congress alone for the amount and payment of their salaries.

Further, they said that King George had "kept among us in times of peace standing armies," and "quartered large bodies of armed troops among us without the consent of our legislatures." I suppose somewhere in this Capitol men are at work to-day in devising ways and means for a permanent standing army to be kept in these islands, east and west, without the consent of anybody there.

They said King George had combined with others to subject us to jurisdiction foreign to our Constitution and not acknowledged by our laws, giving his assent to their acts of pretended legislation for quartering large bodies of armed troops among us; for imposing taxes on us without our consent; for depriving us in many cases of the benefits of trial by jury; for altering fundamentally the forms of our government; for declaring themselves invested with power to legislate for us in all cases whatsoever.

The Declaration of Independence declares that whenever any form of government becomes destructive of the ends therein stated it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. But the Senator from Connecticut thinks we have the constitutional right ourselves to institute a new government for that people, laying its foundation on such principles and organizing its

powers in such form as shall seem to us most likely to effect our safety and happiness without giving them the slightest voice in the matter.

And, further, the Senator must think, although he does not say so—I suppose he expects to vote so—that we have the right to turn our cannon, bayonets, and ships of war and armies upon that people if they attempt to exercise this right, and prevent them from doing it.

Our fathers taught us the priceless value of national credit, and to keep free from the burden of national debt. We have thought until lately that our strength came in a large part from our unsullied and unequalled public credit. If we were compelled in self-defence to enter into a contest with the strongest or richest power on earth, our credit would remain unimpaired until our opponent were bankrupt. If in time of war or public danger we were compelled to contract debt, we have supposed that the only policy of dealing with it in time of peace was to pay it.

But now the Senator from Connecticut seems to contemplate that we shall embark on a permanent system of national expenditure which will put this nation under an obligation the equivalent of which will be a national debt greater than that of any other nation on the face of the earth. Have you reflected that a permanent increase of our expenditures of one hundred and fifty millions a year—which we cannot avoid, and from which we cannot withdraw—is precisely the same thing as adding to our national debt five thousand million dollars, capitalized at 3 per cent., which is more than the Government is now paying, and that a permanent increase in our expenditures of three hundred millions a year is the same as increasing our national debt ten thousand millions, capitalized at 3 per cent.? I think it can be easily demonstrated that the policies on which we are asked to embark involve a permanent national expenditure much larger than the amount I have named. Our civil list, already so enormous, must be enormously increased. Instead of taking from the people by fair competition, or even by fair selection, men to take their share in self-government, we must have in the future, as they have in England, a trained class whose lives are to be spent, not in self-government, but in the government of other men.

At the close of the nineteenth century the American Republic, after its example in abolishing slavery has spread through the world, is asked by the Senator from Connecticut to adopt a doctrine of constitutional expansion on the principle that it is

right to conquer, buy, and subject a whole nation if we happen to deem it for their good—for their good as we conceive it, and not as they conceive it.

Mr. President, Abraham Lincoln said: "No man was ever created good enough to own another." No nation was ever created good enough to own another.

No single American workman, no humble American home, will ever be better or happier for the constitutional doctrine which the Senator from Connecticut proclaims. If it be adopted here, not only the workman's wages will be diminished, not only will the burden of taxation be increased, not only, like the peasant of Europe, will he be born with a heavy debt about his neck and will stagger with an armed soldier upon his back, but his dignity will be dishonored and his manhood discredited by the act of his own Government.

I do not agree, Mr. President, that the lesson of our first hundred years is that the Declaration of Independence and the Constitution are a failure, and that America is to begin the twentieth century where Spain began the sixteenth.

The Monroe Doctrine is gone. Every European nation, every European alliance, has the right to acquire dominion in this hemisphere when we acquire it in the other. The Senator's doctrine put anywhere in practice will make of our beloved country a cheap-jack country, raking after the cart for theavings of European tyranny.

Our fathers dreaded a standing army; but the Senator's doctrine, put in practice anywhere, now or hereafter, renders necessary a standing army, to be reinforced by a powerful navy. Our fathers denounced the subjection of any people whose judges were appointed or whose salaries were paid by a foreign power; but the Senator's doctrine requires us to send to a foreign people judges, not of their own selection, appointed and paid by us. The Senator's doctrine, whenever it shall be put in practice, will entail upon us a national debt larger than any now existing on the face of the earth, larger than any ever known in history.

Our fathers dreaded the national taxgatherer; but the doctrine of the Senator from Connecticut, if it be adopted, is sure to make our national taxgatherer the most familiar visitant to every American home.

Our fathers respected above all the dignity of labor and rights of human nature. The one thing created by God a little lower than the angels was a man. And they meant to send abroad the American flag bearing upon its folds, invisible per-

haps to the bodily eye, but visible to the spiritual discernment, the legend of the dignity of pure manhood. That legend, that character, that fundamental truth, is written in the opening sentences of the great Declaration, and now the Senator from Connecticut would repeal them. He would repeal the great charter of our covenant. No longer, as the flag floats over distant seas, shall it bear on its folds to the downtrodden and oppressed among men the glad tidings that there is at least one spot where that beautiful dream is a living reality. The poor Malay, the poor African, the downtrodden workman of Europe, will exclaim, as he reads this new doctrine: "Good God! Is there not one place left on earth where in right of my manhood I can stand up and be a man?" Will you disregard every lesson of experience? No tropical colony was ever yet successfully administered without a system of contract labor strictly administered and enforced by the Government. I will not speak of the thirteenth amendment. In our parliamentary practice amendments fall with the original bill. This amendment will fall with the original Constitution.

Mr. President, this spasm of folly and delusion also, in my judgment, will surely pass by. Whether it pass by or no, I thank God I have done my duty, and that I have adhered to the great doctrines of righteousness and freedom which I learned from my fathers, and in whose service my life has been spent.

On January 10 William E. Mason (Illinois) spoke upon the following resolution which he had submitted on the 7th of the month:

Whereas, all just powers of government are derived from the consent of the governed: Therefore, be it

Resolved by the Senate of the United States, That the Government of the United States of America will not attempt to govern the people of any other country in the world without the consent of the people themselves, or subject them by force to our dominion against their will.

SENATOR MASON.—Distinguished editors, writers, and statesmen tell me that this doctrine of governing people without their consent is a part of the platform of the Republican party, and they would discipline me because of my opposition. Who dares speak for the Republican party before its convention meets? Who holds in his hand the voice of that great body of liberty-loving men?

That party sprang from the womb of conscience; its great fight was for human liberty; and I prophesy that when the

Republican party meets again in convention, if the delegates represent the conscience of its constituents, the old plank for human liberty will go in again, and the rafters of our convention hall will ring again and again, and yet again, when we declare, as we will, for independence in the Philippine Islands, as we did two years ago for independence for the people of Cuba.

Mr. President, I may be charged with speaking for rebels. When did they take the oath of allegiance to our flag? Name the hour when they have not claimed the right of independence. I am speaking one word for the Philippine Islands, but I am speaking two words for my own country. A boy treading upon an ant, his father said: "Don't, my boy; that is cruel." A learned man said: "The ant has no nerve centers and cannot suffer." "Ah," said the father, "I am speaking one word for the ant and two words for my boy." The one thing that has dwarfed the white race more than any other is its stooping to hold the black man down.

The law of compensation is as unfailing as the law of gravitation. There is no vicarious atonement for a nation's crime. For a hundred years in this country we piled up the wealth of unrequited toil of the slaves. We said, "This is the land of the free and the home of the brave," and sold women and children to the highest and best bidder for cash. We atoned for that crime with a bloody war.

You cannot govern the Philippine Islands without taxing them. You have not yet their consent to tax them. You propose again to tax without representation. Look out for tea parties. Those semi-social functions are liable to occur, for Yankee Doodle and Dixie and the Star Spangled Banner have been heard in the Archipelago.

But, Mr. President, we are told that the Filipinos can govern themselves. Where is the student of evolution who talks like this? Where is the man who has read who does not know that all government is made to fit the people and does not rise either above or below the people themselves? Who does not know the difference between "canned liberty," as the distinguished Speaker of the House [Thomas B. Reed] calls it, and the genuine liberty which we enjoy?

No, no; they cannot govern themselves. I was told so the other day by one of my beloved constituents, who never governs himself fifteen minutes at a time; but he was willing to take an assignment under the present Administration to govern all the Philippines at a fair salary. [Laughter.]

Cannot govern themselves! Every man who ever owned a slave always said: "Why, you poor, downtrodden slave, I own you for your own good, just to help you; I eat my bread in the sweat of your face just to keep you safe and sound from the ways of danger; and in order that I may continue to exercise this Christian duty do not let me catch you with a spelling book in your hand." [Laughter.]

Cannot govern themselves! And we are to say that to-day to the poor, God-forsaken, downtrodden people of the Philippine Islands; and, while we whisper the words of consolation into their ears that we are to give them liberty and life, we wink the other eye to the merchants of the country, and say: "We will extend commerce and sell more calico." [Laughter.] My distinguished friend suggested this morning that we ought to rake those islands with our guns and compel their people to wear shirts—not that they need the shirts, but to increase the demand for calico. [Laughter.]

We are to go to those people and say to them, notwithstanding Dewey said they are competent to govern themselves—he had handled them without guns; he had had no trouble with them; he had an understanding—we are to say to the people of the Philippine Islands, "You poor, God-forsaken creatures, this thing of sovereignty is a great thing; we bought yours somewhere across the water."

We are told by others that we must govern the Philippine Islands or abandon them and turn them back to Spain. Are we going to do that with Cuba? Oh, no. We have said to Cuba: "Go along, my little friend; there is your flag and there is your new republic; you are a friend of the great Republic and not its slave. We have helped to set your flag in the sky. Go on, my brave young republic, and while Yankee Doodle is whistled on this continent no foreign power shall ever invade your soil." Have we got to govern or abandon Cuba? Is that an honest excuse for grabbing something in violation of the common, honest law of nations?

Not one expansionist, not one who advocates the taking of these islands against the consent of the people, but what will tell you in the same breath: "Yes, it is going to be a great tax upon the people of the United States, but we will let the Filipinos pay that tax." They are to pay for our standing army. They are to pay the price of their own chains.

The Filipino is begging to treat with us. He knocks at our door to be heard. He loves his home as you love yours, sir, and as I love mine. He has breathed the inspiration of our history;

he asks only what our fathers fought for—the right to govern himself. There is no treaty of commercial value to the United States which could be suggested that he is not ready and willing to give us. Then it is not the expansion of commerce you want, but it is the expansion of the gewgaws and the tinsels of royalty.

Those of us who pointed out in the early summer this present situation knew that it meant war for expansion, war for conquest, war in the denial of our very proposition made in this Chamber when we declared war for the liberation of Cuba.

Let me give notice to you gentlemen who expect to be in politics that if this war goes on, and if we open the guns, as we threaten to do within ten days, upon the women and children in the island of Iloilo, the father in New England will begin to plead for the father in Manila, the mother in Illinois will begin to pray for the mother in the islands of the sea, and the fathers will vote as the mothers pray. God Almighty help the party that seeks to give civilization and Christian liberty hypodermically with 13-inch guns.

Are we to hear Aguinaldo called a cutthroat, a robber, as we did the poor Garcia within this very Chamber, because he fought for liberty and for his own country?

Oh, but they say Aguinaldo is a self-appointed chief. That is a way of their politics there. Look about the Senate, Mr. President, and who of us is here except originally upon his own invitation? [Laughter.]

Why, Mr. President, cannot we now make those people our friends, as Fox pleaded to make America England's friend a hundred years ago? Why not give them what they ask? Why should we stingily withhold the jewel of independence? Why should we not finish this war as we began it—for humanity's sake? Why not with a free and open hand give them what we have promised to give to Cuba, and say: "Go and obey the Divine injunction, work out your own salvation with fear and trembling; go and learn by experience as we did. Profit by your mistakes, as we have done. Yes, we have saved your life, Filipino, and in the future we will protect it against all comers from within or without while our flag floats." Then we shall have kept our promise, and only then.

The insurgents held more territory than the Spaniards. We ourselves discredited the sovereign title of Spain. We ourselves have thrown a taint upon their possessions. We ourselves, in the face of the world, have thrown a taint upon all sovereignty claimed by Spain that was held by force. Yes,

the insurgents held more than the Spaniards held within their grasp, but the Spanish were better traders. They knew how to buy and sell sovereignty better than the Filipinos, who, thank God, have not learned it, and we ought never to begin to teach them.

I am for the independence of the people of the Philippine Islands, as I am for independence of the people of Cuba. I am bound by a solemn promise made in this Chamber. Senators may higgie and say it is not nominated in the bond; but it is an implied promise, more sacred to an honorable gentleman than though it were written in blood.

Mr. President, let us say to them, as we have said to Cuba: "Go on your way; learn by evolution"—for that is the only way. "The use of power develops power. You cannot learn to swim outside of water. You may take lessons in swimming each summer, my dear Filipinos; we will send you 4,000 teachers of swimming; but you had better not get in out of your depth until you have taken a trial yourselves." Give them the independence they plead for, and we shall have kept our promise with the people of the world.

That we have assisted the Filipinos is undoubtedly true. That they assisted us is also true. We are told that Aguinaldo could not have got back there but for Dewey. Then Dewey put him back. Then under all the laws of common honesty he is an ally. Under all the laws of nations he is our ally.

What is the rule in ethics and good morals that leads us to take a different stand toward the people of the Philippines, who are more enlightened and better educated, have more newspapers and better schools, from that we take toward Cuba? Do you say, with the explosionists—I mean the expansionists: "We promised we would not steal Cuba, but we did not promise not to steal the Philippines?" Do you say, with Shylock: "Is it so nominated in the bond?" Will you tell me, please, how grand larceny and criminal aggression in Cuba become high Christian civilization in the Philippines? Is there some place in the Pacific Ocean where we change the code of ethics and good morals as we change the calendar and the ship's clock in crossing?

Mr. President, we cannot teach them to govern themselves. There is only one road to self-government. That is through the gate of responsibility, along the rough and rugged road of experience. You cannot teach liberty and self-government with a Mauser gun. Spain has tried it. She has believed in the expansion of territory, expansion of commerce by force, without the

consent of the governed—and her ships are lying at the bottom of the sea.

My friends, have you forgotten the first rule proved by all history, without exception, that every square inch of territory taken by force has to be held by force? There is Alsace-Lorraine, between Germany and France. A standing army is kept there on both sides, and there is a continuing threat of war.

Driving in his carriage one day, President Lincoln alighted to turn a tumblebug to his legs. Replying to the cabinet minister within the carriage, he said: "I merely wanted to give him a show with all the other bugs of his class." He did not want to annex the bug or to tell him how to run his business. He did not seek to tax him or to tell him that he did not know how to govern his bugship. He set him along the highroad, along the line of the survival of the fittest.

Do you remember when Mexico was invaded by the French and Uncle Sam said: "Go; there is the Monroe Doctrine; Mexico is covered by the shadow of its wing," and the French soldiers left, and the brave little Republic of Mexico is slowly but surely climbing the ladder to a better education, a better civilization. Ah, Mr. President, that is the expansion I believe in. That is the imperialism the Fathers taught.

Venezuela, within three years, was assaulted by England—sought to be despoiled of her port of entry. Grover Cleveland was President of the United States, and he said to the greatest naval power of the world, "Stop!" You know the result. Venezuela, struggling along, improving in civil and religious liberty, is climbing higher and higher in the scale of civilization. We did not want to annex her when we spoke for her. We did not seek to tax and govern her, but we set her on the highroad of imperialism within herself, and that is the imperialism the Fathers taught, and that is the expansion I plead for.

Have you forgotten the scenes of twelve months ago within this Chamber, during the debate on Cuba? Do you remember when some of our distinguished colleagues read to us the charge by the Germans that we were seeking territory, that Uncle Sam was a sly dog, and that we were playing the part of the good Samaritan and had a compass under our wings to measure territory?

Have you forgotten how, in reply to this slander, we called upon the nations to look this way, and said: "Turn, all ye people of the world, turn and see America. She worshipeth at the shrine of Him who died to make men free. We unlimber our guns only for humanity's sake." Are we, by turning our

guns upon the natives, to say by our conduct: "Look not this way; turn in shame from us; the money changers are in the temple of liberty; the jingle of gold and silver is heard within her walls; and we are now about to barter and dicker, to buy and sell the right to govern men and women and children without their consent."

But, Mr. President, we are told by the distinguished Senator from Connecticut [Mr. Platt]—"We are going to give them liberty, but we want them to have our kind of liberty. You must be happy, my dear Filipino, but happy in the way I tell you to be happy."

Let me read you the exact words of King George III, so that you may be sure to be on his side when next you spout for liberty for the Philippines. He was "desirous of restoring to the colonies the blessings of law and liberty." Oh, why was not Pecksniff born at that time to wear a crown? King George said exactly as the Senator from Connecticut said—he was going to give them the liberty of his kind; Connecticut liberty for the Philippine Islands. [Laughter.]

I am going to read you more about King George's liberty. You can insert it in the speech of the distinguished Senator yesterday, and you could not tell whether it was the Senator from Connecticut or King George who made it. "I am desirous of restoring to them the blessings of law and liberty equally enjoyed by every British subject."

You want to strike out the word "British" and insert "American" in the gentlemen's speech yesterday; that is all—"which they have fatally and desperately exchanged for the calamities of war and the arbitrary tyranny of their chiefs."

The king referred to Washington; the Senator to Aguinaldo. Was there not an answer on the same day from the lover of liberty, Fox—not because he loved us, but because he loved liberty? In answer to the King he said on the same day, rising in his place: "But, sir, how is this blessed system of liberty to be established? By the bayonets of disciplined Hessians?"

How is liberty to be established in the Philippines? You have answered by your proclamation. You say, peacefully if you can, but by powder if you must. I say that the boys in blue or gray, or whatever color they fight in, enlisted to make men free. They enlisted to fight the tyrant Spain. They did not enlist to fight the Filipinos, and the fairest thing you can do for the American youth before you set him to shooting the women and children of the island is to give him a chance to come home.

They are not Hessians. They are not hired as butchers. They heard the lofty talk of patriotism. We were all willing to die to make men free. You have no right, after having accomplished the liberty of Cuba, to send your officers 10,000 miles away to subjugate, to kill, and to destroy the innocent natives, whose only offence is the love of wife, the love of children, and the love of home.

I ask now for some one who shall follow me to answer, Did Aguinaldo go back there under the protection of our flag? If so, is he not an ally? If he is an ally, have we a right to settle terms of war and peace without consulting him and his people? Ah, but it was officially reported that our general in command [Miller] said to them, "Give up Iloilo," and they said, "No," and it is officially reported that our commander said, "Before we burn your town we will give you twenty-four hours to take your women and children out under the stars."

SENATOR HOAR.—I should like to ask the Senator from Illinois a question. Does not the same report, uncontradicted anywhere, say that at the time that notice was given the people of Iloilo had established orderly civil government, with courts, police officers, and means for the collection of customs and revenues in the islands?

SENATOR MASON.—Certainly.

SENATOR HOAR.—That is what they are going to overthrow.

SENATOR MASON.—We had never put our foot upon that island when the people drove the Spaniards out. Our flag has never been upon the island, either by conquest or in any other way. The people are governing themselves, and we are told that we are to give them twenty-four hours—that is not so long as Weyler gave them, in some instances—for men, women, and children to move out of their homes—homes as sacred as mine is to me or yours is to you. That is to be our action against people who have never offended us; against people who have been our allies in this struggle. At the point of a gun we are to conquer our allies, having defeated the main opponent of the fight. Shade of the immortal Washington, defend us! Tears of the martyred Lincoln, plead for this country at the throne of eternal justice!

But, Mr. President, we are told by certain distinguished gentlemen who are interested in commerce, and who talk one story in the counting-room and another one in the church, that we must civilize these people. "Thank God, we are not as other men. We must bring them up to our standard in civilization." I suppose that means clothes, religion, churches, schools, and

the use of all the peculiar kinds of drinks that we indulge in. Food, raiment, and the color of the necktie must be involved.

How are we going to civilize them, Mr. President? Shall we show them how to run municipalities with boodle aldermen? I see that the great chief of that ethical society known as Tammany Hall has taken sides on this question. "Take the islands," says the Tammany chief. "Civilize them." Shall we send him over there to teach the untutored Filipino cleanliness and municipal reform? Shall we teach them to worship money and the man who has it, regardless of how he got it? Shall we send special instructors to teach them how to kill postmasters, their wives and children, if their complexion does not suit the populace? Shall we have illustrated pictures showing the works of the mob in Illinois, North Carolina, and South Carolina?

Why, Mr. President, since the signing of the protocol we have murdered more men in Illinois by the mob than they have in the Philippine Islands. Shall we take that branch of our civilization and force it upon them with a 13-inch gun? Shall we teach them how to organize trusts, so that when one gentleman is out on his yacht and is troubled with liver complaint or a trifle seasick he can float into Manila Bay and raise the price of sugar on 70,000,000 people?

Shall we teach them how to organize their legislature as we have this body, so that the minority can boss and not the majority? Shall we teach them the speech of the distinguished Senator from Connecticut, that all just powers of government are derived from the consent of "some" of the governed? Shall we send them Lincoln's Gettysburg speech amended in that way—a government of some of the people, by a part of the people, for a few of the people?

Gentlemen may say I belittle my own institutions. I do not. I should like to call attention to a few of the beams in the eye of the Americano that he may not stretch and break his neck reaching 10,000 miles away to find the mote in the eye of the Filipino.

No; I am not afraid of the result so far as my country is concerned. The distinguished Senator who sounded a keynote, the like of which has not been heard in half a century in this hall, may have just grounds for apprehension, but I come from a younger community. We have stood many things, as our country has. We went through the Know-Nothing craze, the Greenback fever, the free-silver tempest, and we have come up out of it all brave and strong. Why?

Why, Mr. President? Because our Government was built

right. The just powers of the Government have been derived from the consent of the people. It is built on a rock that cannot wash away. It has within itself the wellspring of eternal youth.

And why, Mr. President, in the name of all that is generous, should we refuse the Filipino the privilege of lighting his feeble taper at the light and heat of our flaming torch?

Mr. President, why is it that to-day in the happy land of Cuba they are preparing to celebrate their Fourth of July? Have you not read of the processions, the whites and the blacks, the men and the women and the children, the starving reconcentrados, marching and shouting, singing their Marseillaise, singing their Star Spangled Banner? Why? Because we promised them independence, and by implication we promised the same thing to the Philippine Islands.

Why is it not so to-day in the Philippine Islands? Why are they gathering their men and their guns around them? Are they not saying to us, "This war means something more than a change of masters"? Aye, Mr. President, when some gentleman who loves liberty takes this floor I beg him to tell me the reason for treating them differently from what we propose to treat the people in the island of Cuba.

Oh, but gentlemen say there is something in annexation. There is the sale of rum and tobacco and calico. If you want the land, there is Canada; that is nearer. Take Canada. They talk our language. But when I say that to my expansionist friend, he says, "That is different." Oh, yes; it is different, and I will tell you the difference. It is the difference between the fleet of Victoria and the fleet of Aguinaldo.

I have seen men dying in hospitals without a murmur. They said to me, "I am going to die; it is all right, old man." I have stood by the open graves. I have seen the mother's tears dry and her face light up with hope—aye, with pride—when it was said to her that he died in a noble cause; that he died like the Master, for others. I have seen the tears dry and the face light with pride because her son was there, having died in a cause as sacred as the Nazarene's.

But, Mr. President, when your ships come home laden from Manila with the putrid remains of our boys, and you take the coffin to the mother's door, you never will dry her tears, you never will soothe her heart by telling her that you have extended your commerce at the cost of her dead boy.

I had hoped for some power of language that the old masters had who stood within this forum in the past. I have

almost prayed for some magnetic power that I could draw you so close that I could write in living letters upon your hearts the word "Liberty." Not liberty, Mr. President, for your family as I prescribe it, not liberty for me or my children by your dictation, not Austrian liberty for Hungary, not Spanish liberty for Cuba, not English liberty for the United States, ay, and not American liberty for the Philippines, but universal liberty—the universal liberty for which our fathers died. [Applause in the galleries.]

On January 11 Joseph B. Foraker (Ohio) spoke against both the Vest and the Mason resolutions.

First in order we have the speech of the Senator from Missouri [Mr. Vest]. He has three main propositions he insists upon in support of his resolution.

In the first place, he tells us that there is a historical argument against this Government holding colonies and governing them as such. Then he tells us that our fathers rebelled against England, and that the war waged by them was for the purpose of destroying the colonial system, and that the circumstances were such that it cannot be reasonably assumed or believed that they could have contemplated, after having themselves broken away from the colonial system, a continuation of it, and that they could not have created a government and invested it with power to continue colonial governments.

Mr. President, it seems to me that when we recall the facts attending the inception of the war of the Revolution, the nature of it in its beginning, and how it was subsequently changed to a different purpose, we have one of the strongest possible arguments to the effect that there was at least no prejudice in the minds of the Fathers against the colonial system of government. Take the Declaration of Independence which has so frequently been alluded to in these debates in the last two or three days, and read the recitation of grievances there set forth by the framers of that document.

You will not find there any complaint against the colonial system of government proper, but only against abuses of that system.

But, Mr. President, I call attention to another matter which is sufficient of itself to show conclusively that the Fathers who framed our Government not only were not seeking to establish a government that could not continue the colonial system of government, but that they had in view as one of the express

purposes of that government the acquisition of colonies and the government of them at will as colonies.

In a letter to Henry W. Livingston, dated the 4th of December, 1803, and written in answer to an inquiry as to the power of the Government under the Constitution to acquire territory and the power of the Congress after acquisition to govern it, Gouverneur Morris wrote:

In my opinion, they can not.

Here is one of the framers of the Constitution of the United States—indeed, the very author of the section concerning territories—saying that the unquestioned power to acquire territory could not be exercised with a view to incorporating that territory when acquired into the Union as States at all. What further does he say? He speaks next of this clause of section 3, Article IV, of the Constitution investing Congress with the power to govern territory when acquired, and says:

I always thought that when we should acquire Canada and Louisiana it would be proper to govern them as provinces and allow them no voice in our councils.

MARION BUTLER [N. C.].—Does not Gouverneur Morris in the same letter state that, while that was his view and desire, yet the language of the Constitution did not go that far? Did he not admit that he did not dare to put that sentiment in express words for fear the Constitutional Convention would vote it down?

SENATOR FORAKER.—It is hardly that strong. He does say that he thought there would be opposition to it. He says:

In wording the third section of the fourth article I went as far as circumstances would permit to establish the exclusion.

To exclude territory from statehood.

Candor obliges me to add my belief that had it been more pointedly expressed a strong opposition would have been made.

SENATOR BUTLER.—Will the Senator from Ohio pardon me? Gouverneur Morris's letter is really a confession that the Convention did not understand his language as he meant it.

SENATOR FORAKER.—So be it. There is his language. He seems to have got in his work anyhow. [Laughter.] The language employed by Gouverneur Morris has been held sufficient

by Chief Justice Marshall and by the Supreme Court, without exception, every time that question has been before that tribunal, to confer upon the Government the power intended by Gouverneur Morris to be conferred, namely, the power to govern territory that might be acquired.

The second argument advanced by the Senator from Missouri in support of his resolution is based upon the Dred Scott decision.

Mr. President, I have not the time to take the opinions of the nine justices of the Supreme Court, for each gave an opinion in that case, and review them at length and in detail to show that the Senator from Missouri is mistaken when he says that the nine justices of the Supreme Court in that case concurred in this proposition; but I state it as confidently as his statement has been made, without fear of successful contradiction, that, instead of the nine justices of the Supreme Court of the United States agreeing to that proposition, only one associate justice, Mr. Justice Wayne, agreed to it.

Look through the language employed in the respective opinions and you will find that not another justice touched upon that proposition in any way or form, and why? It was not necessary for the decision of the case. That, Mr. President, was a political case, and the decision was a political decision. It was a battle to the finish in the contest between slavery and freedom.

No justice could prepare an opinion which a majority would accept and allow to be read as the opinion of the court; and after they became fully aware of that difficulty and situation, it was then by the justices agreed that each member of the court should write his own opinion, and the court would content itself with an agreement of a majority of the members upon the judgment that was to be rendered.

And it was deliberately, Mr. President, agreed, upon the suggestion of Mr. Justice Wayne, that when they found themselves unable otherwise to agree they should undertake to go beyond the necessities of the case and give *obiter dicta* with a view to settling the political questions which were then disturbing the American people. Therefore what the Senator relies upon as a decision of the Supreme Court in support of this resolution is no decision. It has never been so decided by that court, and has never been decided so by any other court in this land, either high or low, so far as I have been able to ascertain.

The next proposition of the Senator from Missouri I can dispose of rather briefly. It is predicated upon section 3 of

Article IV of the Constitution. That section contains two clauses. The first relates to the admission of new States, and the second relates to the government of Territories. Without stopping to go over it in detail, it is sufficient to say that the Senator reverses these clauses and reads the last as though it were first and the first as though it were the second or the last.

The Senator from Missouri then concludes that because of the reading of the text of the Constitution when so arranged it is clear to every intelligent layman that it was intended by the framers of the Constitution that no territory should be acquired except only with the present intention of ultimately making it a State.

Mr. President, the whole of that argument, it seems to me, falls to the ground when we reverse the order and read it, not as the Senator has read it, but as the framers of the Constitution read it. They chose the order; and when you restore the proper order, the order in which they placed these provisions, no such deduction can be rightfully made as that which the Senator from Missouri has made.

I come now, Mr. President, to the speech of the Senator from Massachusetts [Mr. Hoar]; and, before I undertake in my humble way to say in answer to it what I feel moved to say, that I listened to it with the very greatest interest, as I always listen to anything that is spoken in this Chamber by the Senator. It was a speech of great ability, a speech such as only few men could make. But, Mr. President, when it is all reduced to practical propositions, it amounted, as I understood it, to simply this, that the Government of the United States has no constitutional power to acquire territory except only for constitutional purposes, of which purposes the Senator from Massachusetts seems to constitute himself the sole and exclusive judge.

In other words, Mr. President, it must be a constitutional purpose according to the definition given by the Senator from Massachusetts of the purposes of the Constitution. He specifies that it is constitutional under the Constitution for the Government, in the exercise of its constitutional power with respect to the acquisition of territory, to secure a coaling station, a naval station, a place for a post office or a custom house, and, remembering our experience last summer at the last session, he thought it was constitutional to acquire Hawaii, because necessary to the national defence. I did not understand the Senator to say, but I understood him to admit, that when this Government acquires territory for one of these constitutional purposes it is not necessary to secure the consent of the people who may occupy that

territory and who must by the acquisition pass under our jurisdiction and be governed by us.

SENATOR HOAR.—I did not make any such admission.

SENATOR FORAKER.—I rather thought he had in mind the fact that when we were debating the Hawaiian resolution there was a protest filed here in this chamber by the Senator from Massachusetts, signed by more than 14,000 of the Kanakas, or natives of that island, protesting against the acquisition by the United States Government of the Hawaiian Islands and the extension of our jurisdiction over them.

SENATOR HOAR.—The Senator, I am sure, will pardon me?

SENATOR FORAKER.—Certainly.

SENATOR HOAR.—The people of Hawaii voted upon a constitution, and in that constitution they expressly authorized their legislative body to make provision for their annexation to the United States. Thereupon, in pursuance of the constitution, which had been in force for six or seven years, they proceeded to do it. Now, it is true that I presented a paper purporting to be signed (I do not know whether the signatures were or were not in every case verified) by a pretty large number of the Kanakas, but I believed then and stated then, and I believe now, that a majority of the citizens of Hawaii desired annexation to the United States; and that, in addition to that, everything in that island which could be called the germ of a national life was on that side; and so did the Senator from Ohio believe, I am sure.

SENATOR FORAKER.—Surely, but I had no constitutional trouble about it. Now, all the Senator has said is quite true: but the fact remains, and that is what I am calling attention to, that he did not state in his speech—if he did it escaped me, and I allude to it now that he may correct me if I should be corrected—that when we acquire territory for a constitutional purpose the consent has anything to do with it. Suppose we acquire a coaling station that is situated upon an island in the sea. It is a constitutional purpose for which we have to acquire it. Suppose the inhabitants be of such a character that it is essential to the safety of our interests there that we acquire the whole island, though there be a thousand, or ten thousand, or one hundred thousand, as in the case of Hawaii, or a million people or more, as may be the case as to Luzon. Suppose we acquired it for a constitutional purpose, a purpose that is absolutely essential to the national welfare, for the purpose of national defence, must we stop in such a case and secure consent of the population? The Senator's statement was in regard to

Hawaii. Would we stop and jeopardize the national interests, hesitating to acquire a place necessary to the national defence, because somebody there had not been consulted? And suppose we consult the population and they object, or some of them object. What then?

SENATOR HOAR.—If the Senator will pardon me, it was not appropriate or apt to what I had to say the other day to express an opinion on that subject, but I certainly affirm that if it were desirable, convenient, or we thought it essential for our national defence to annex outlying territory, and the people there possessing that territory objected, I should consider the claiming it, annexing it, subjecting it, under those circumstances as a great national crime to be repudiated, denounced; and I should consider that the United States had better go down beneath the waters of the Pacific in honor rather than disgrace itself by doing that thing.

SENATOR FORAKER.—We understand from the Senator from Massachusetts what we did not learn from his speech the day before yesterday. We have learned that, according to his interpretation of the Constitution, possessions may be acquired for constitutional purposes and they may be acquired for purposes that are not constitutional in the sense in which he has defined those purposes, but that in all cases where territory is acquired, whether for constitutional purposes or not, the consent of the inhabitants of that territory must be secured before we can acquire it.

SENATOR HOAR.—That is not what I said. I said where there is a people there governing it. I do not mean to say if there is a continent of 10,000,000 square miles, over which there are five or six thousand savages roaming, incapable of national life, incapable of civilized life, incapable of government, not a people, not the germ of a people, never to become a people, that civilization and Christian government are estopped at the threshold. But where there is, as there is in the Philippine Islands, a people possessing a country—

SENATOR FORAKER.—I am not talking about the Philippine Islands yet. I am talking about the abstract question, and I want to go on with it.

SENATOR HOAR.—So am I. When there is, as there clearly is in the case I am speaking of, in the Philippine Islands now, a people, or to take the case of Canada, which has been cited here, remonstrating, I say it would be a great national crime, and our fathers said it would be a great national crime, for us to undertake to subdue and occupy that territory for any pur-

pose of our own; and if we cannot live as a nation without committing that crime we ought to die as a nation without committing it. That is my doctrine.

SENATOR FORAKER.—Mr. President, as I now understand the Senator from Massachusetts, he does not think the march of civilization ought to be estopped for the want of consent. I suppose the march of the French from the mouth of the Kongo across the dark continent of Africa to meet the British in their march up the Nile to Fashoda would meet with the approbation of the Senator, without regard to consent, because in those regions are to be found not the kind of civilization which he has depicted to us as being found in the Philippine Islands, but the character of civilization that has been described as existing on those islands by the Senator from Louisiana [Donelson Caffery].

However that may be, whatever the exceptions of the Senator from Massachusetts may be, I take issue with him upon the general proposition that when you acquire territory for a constitutional purpose you must secure the consent of the people in acquiring that territory; and I want to follow that with this proposition, that it is not only an acquisition of territory for a governmental purpose when you acquire it for a post office, a custom house, a naval station, or a coaling station, but it is equally the acquisition of territory for a governmental purpose when in war you take it by conquest to despoil, weaken, and destroy your enemy; and it is equally the acquisition of territory for a governmental purpose when, at the conclusion of a war with a bankrupt nation, they have nothing with which to indemnify you except only territory, and you take it on that account. These are all constitutional purposes, and no consent of the people is necessary in any of them.

Mr. President, is it possible that this great and powerful nation of ours, powerful in peace and powerful in war, and to be powerful, we trust, in the commercial world, has no power to subserve its own necessary and constitutional purposes except only by the consent of the people who may for the time being be affected? I utterly repudiate any such doctrine.

Why, Mr. President, this Government, as I have undertaken to point out, has unqualified and unrestricted power to acquire territory by treaty. When you acquire territory by treaty, is not that acquiring it for a constitutional purpose? If the Chief Executive of the nation sign and the Senate of the United States ratify a treaty agreeing that territory shall be acquired in a given case, are we to assume that it was not a constitutional purpose

for which it was acquired and that they have violated the Constitution? Is the purpose in such case open to question?

We were talking about Canada this morning. Suppose, Mr. President, the cordial relations, with which we are all so much gratified, that are existing now between Canada and the mother country and this country should be changed, and hostilities should arise between us and them, and it should be necessary for this country to march its armies across the border and take Canada, or part of Canada, by way of indemnity or by conquest, I ask would not that be a constitutional acquisition of territory?

If that be a constitutional purpose, and it be so constitutionally acquired, can we not govern it without stopping to count how many people there are and to know whether or not, if consulted, they would give, formally or otherwise, their assent to the proposition? It seems to me, with all due deference to the distinguished Senators who advance the proposition, that it is absolutely untenable.

Again, a great deal was sought to be made of the fact that the Senator from Connecticut [Mr. Platt] answered an inquiry of the Senator from Massachusetts [Mr. Hoar] by saying that "the just powers of government are derived from the consent of some of the governed." That is strictly true. True, as the Senator from Connecticut pointed out at the time when he remarked it, minors are citizens of the United States, and yet we do not stop to consult them as to government; women are citizens of the United States, and yet, so far as the exercise of the elective franchise at least is concerned, they are not consulted.

There are many other instances: Abraham Lincoln was elected President in 1860 by a minority vote, and eleven States of this Union undertook to go out of the Union, and fight their way out, rather than stay and be governed by him. But Mr. Lincoln marshaled the armies of the nation, and after four years of war compelled them to submit to the Government which he had been called upon to administer. We did not have the consent of those eleven States.

But now, Mr. President, I want to pass all that by and hurry to a conclusion by calling attention to the fact that what has so disturbed the Senator from Massachusetts and other Senators is without any foundation whatever as I understand the facts.

What is the excuse for talking about our intending to take a people who are struggling for freedom and liberty and independence and with shot and shell and sword and bayonet subjecting them to our power and our institutions and despotically

governing them against their will? I have not heard of anybody wishing or intending to do that.

Mr. President, the trouble with the gentlemen is that they are talking about a theory instead of the condition that exists. What is the practical condition about which we are concerned, and what have Senators on the other side offered for the solution of that situation? We had war with Spain. The fortunes of war carried us to the Philippines. When the war ended, those islands either had to be returned to Spain or they had to be taken by other nations, as other nations might see fit to take them, or the people of those islands had to be left in a state of anarchy, without government—for they had none then and have none yet—or else they had to be taken by the United States.

The first proposition was, Shall we return those islands to Spain? The Republican convention of Massachusetts answered that, and the Senator from Massachusetts time and again on the stump in the campaign, as I saw him reported in the newspapers, spoke in indorsement and approval of the declaration of the Republican convention of the State of Massachusetts when it said these islands should not be returned to Spain.

SENATOR HOAR.—I wrote it.

SENATOR FORAKER.—You wrote it? [Laughter.]

SENATOR HOAR.—Yes.

SENATOR FORAKER.—Then I presume it is safe to assume that we can quote the Senator from Massachusetts as opposed to the return of the Philippine Islands to Spain.

SENATOR HOAR.—Yes.

SENATOR FORAKER.—Then I am sure as to that proposition we are all agreed, and rightly. So the first thing settled was that the islands should not go back to Spain. What, then, was to be done was the practical question. We had to deal with it in a practical way. I saw it reported in the newspapers, and I saw it stated upon other authorities, that before the Peace Commission and elsewhere the statement was made, and made on behalf of Aguinaldo and the insurgents he represented, that, if the United States did not take them, there would be almost all Europe on their backs the next morning before breakfast.

We did not want that; we did not have any moral right to allow any such thing as that. We were not very well acquainted as yet with the Filipinos, but we at once decided against both of these propositions. Who will say our decision was unwise?

What, then, was left? We had left on our hands the choice of allowing to them their independence and the privilege of establishing a free republic, which I do not understand anybody

intends to deny to them, except only temporarily at the most, and allowing them to run all the risks of disorder and tyranny and misrule and mob rule, or otherwise we had to accept them and take care of them ourselves.

I do not understand anybody to be proposing to take the Philippine Islands with the idea and view of permanently holding them and denying to the people there the right to have a government of their own if they are capable of it and want to establish it. I do not understand that anybody wants to do that. I have not heard of anybody who wants to do that. The President of the United States does not, I know, and no Senator in this chamber has made any such statement.

SENATOR HOAR.—Will the Senator allow me to ask him if he claims that we have the right to do what nobody proposes to do? I ask if we have the right to hold them without giving them their independence if we want to?

SENATOR FORAKER.—Unquestionably, if we take the Philippine Islands, so far as the question of power is concerned, I think there is no question whatever—

SENATOR HOAR.—I used the word "right."

SENATOR FORAKER.—I used the word "right" also. I am speaking, however, of the legal right; I am speaking of the power; I am speaking of the right; I am speaking of the authority of this Government. When it comes to the question of policy, I will tell you in a minute what I think about that. I am now telling you what we decided—and I think the Senator will agree with me—that those islands ought not to be given back to Spain or given to any other European power which would partition them out. Only two things were left—to leave them to themselves at once and retire immediately, taking no responsibility whatever for the condition there obtaining, or else take charge of them by cession from Spain, asking the world to have confidence in this great Government, which has ever sought to do right, that we will deal with them as they should be dealt with.

As a result, the commissioners representing the United States at Paris have agreed upon a treaty—it has been published in the newspapers, and, therefore, I may speak of it freely, although the ban of secrecy has not yet been removed formally—according to the terms of which we are to take possession of these islands. Spain has agreed to that, and I suppose that the treaty in the near future will be ratified.

AUGUSTUS O. BACON [Ga.]—What is there differing between the condition of the people of the Philippine Islands and the

people of Cuba which would prevent our making the same stipulations and the same requirements in regard to the Philippine Islands that we have made in regard to Cuba?

SENATOR FORAKER.—Just this, Mr. President: In the case of Cuba there was no complication whatever involving any other power except only the powers of Spain and the United States, and in the case of the Philippine Islands there are complications which I cannot speak of here in this open chamber with propriety, but which you will hear of when we sit behind closed doors to consider this treaty, which justify in the most complete manner, as I understand it, the action of the President in pursuing the course which has been pursued. In fact, no other course would have been a safe course for this country to pursue, having in view the object and the end not only of justice to ourselves in this controversy, but especially justice and right and the promotion of the good of the Filipinos themselves.

SENATOR HOAR.—May I ask the Senator one question, and I will not ask him another on this particular point on which he is discoursing? He says, as I understand, that, after the pacification of these islands, they should be restored to the inhabitants if they desire it and are fit to take control. Now, in that case, is or is not the American flag to be hauled down?

SENATOR FORAKER.—Well, Mr. President, that is a question which we will answer when we come to it.

SENATOR HOAR.—I thought we had come to it now.

SENATOR FORAKER.—What I have said in answer to the Senator is in the *Record*, and will show that I do not know of anybody who wants to take possession of the Philippine Islands and govern the people of those islands indefinitely against their will, by force of arms. I believe that the President of the United States and those who are supporting his policy in this regard are as much lovers of liberty and justice as is the Senator from Massachusetts, and I believe their love of liberty and freedom and independence will go out in the future, as it goes out to-day, to the Filipinos and all the rest of mankind, as certainly and as unerringly as his.

SENATOR HOAR.—My question to the Senator was not put as a mere piece of rhetoric or word playing.

SENATOR FORAKER.—There was not much rhetoric about it, I will admit. [Laughter.]

SENATOR HOAR.—I understand, whether rightly or not, that the gentlemen who have said the American flag shall not be hauled down where it has been once raised mean to have it understood that we are to hold perpetual dominion over those

people whether they consent or no. That is what I understood, and I wanted to see what was the Senator's view about that.

SENATOR FORAKER.—Well, Mr. President, I will tell the Senator what my view is—

SENATOR HOAR.—Does the Senator mean, if the people of the Philippine Islands think it is for their happiness to try to govern themselves, that we should withdraw the power of the United States and let them do it?

SENATOR FORAKER.—I think when we come to consider the question of policy with respect to the Philippines, with the conditions there existing, their feeling of friendship, or their feeling of consent or of objection, will have much to do with determining Congress in that respect. I say I do not know of anybody, from the President of the United States down to his humblest follower in this matter, who is proposing by force and violence to take and hold those islands for all time to come. That is all I can say in answer to the Senator.

I am willing to trust the Administration; I am willing to trust the institutions of this Government and the people of this Government to do justice by the Filipinos. I have no sympathy whatever, Mr. President, and I do not believe the Administration has, with the war which some people talk about making on Aguinaldo and his followers in their struggle for liberty and independence, and I have no sympathy whatever with the talk that is indulged in in some places about making war on Gomez and his followers who have been struggling for the liberation of Cuba. In due time all that will be reached and considered. But I say now that this case, as every other case, must stand or fall upon its own merits and be measured by its own facts, conditions, and circumstances.

I know whereof I speak when I say that of the four things we had the choice of doing—giving the islands back to Spain, giving them to other countries, leaving them to anarchy, or taking them ourselves—the President acted most wisely when he concluded that we should take them ourselves; and he comes now and says, when he submits this treaty, "You put me to war; here is the result; here are these people; do with them as you like." It is for the Congress of the United States to investigate and find out about the islands of the Philippines, what kind of inhabitants they may have, whether or not they are capable of government, and whether or not they want government, or whether or not only a few want government.

What is the feeling of the population? You cannot tell that in the short time we have had to deal with them. At least I

have not been able to satisfy my mind about it. I hope in the near future to be able to do so, and I hope that in due course, at no distant day, we can act intelligently, and I know we will act justly.

I wish, in concluding, to submit and have printed at the close of my remarks the order made by the President with respect to the Philippine Islands, dated December 21, 1898. I shall not stop to read it, but I submit it and ask that it may go into the *Record* simply that the spirit with which he has undertaken to do what he is doing may be made manifest.

Mr. President, I thank you. [Manifestations of applause in the galleries.]

On the same day (January 11) Augustus O. Bacon (Georgia) introduced in the Senate the following joint resolution:

Resolved by the Senate and House: First. That the Government and people of the United States have not waged the recent war with Spain for conquest and for the acquisition of foreign territory, but solely for the purposes set forth in the resolution of Congress making the declaration of said war, the acquisition of such small tracts of land or harbors as may be necessary for governmental purposes being not deemed inconsistent with the same.

Second. That in demanding and in receiving the cession of the Philippine Islands it is not the purpose of the Government of the United States to secure and maintain dominion over the same as a part of the territory of the United States, or to incorporate the inhabitants thereof as citizens of the United States, or to hold said inhabitants as vassals or subjects of this Government.

Third. That whereas at the time of the declaration of war by the United States against Spain, and prior thereto, the inhabitants of the Philippine Islands were actively engaged in a war with Spain to achieve their independence, and whereas said purpose and the military operations thereunder have not been abandoned, but are still being actively prosecuted thereunder, therefore, in recognition of and in obedience to the vital principle announced in the great declaration that governments derive "their just powers from the consent of the governed," the Government of the United States recognizes that the people of the Philippine Islands of a right ought to be free and independent; that, with this view and to give effect to the same, the Government of the United States has required the Government of Spain to relinquish its authority and government in the Philippine Islands and to withdraw its land and naval forces from the Philippine Islands and from the waters thereof.

Fourth. That the United States hereby disclaim any disposition or intention to exercise sovereignty, jurisdiction, or control over said islands, and assert their determination, when a stable and independent government shall have been duly erected therein entitled to recognition as such, to transfer to said government, upon terms which shall be reasonable and just, all rights secured under the cession by Spain, and to thereupon leave the government and control of the islands to their people.

January 18 Senator Bacon spoke to this resolution.

Mr. President, many who are reluctant to relinquish the Philippine Islands and who are at the same time unwilling to commit themselves to the doctrine of forcible annexation, who at the same time are not willing to put the Government in the position of ruling a people and subjecting them against their will, endeavor to reconcile themselves by the proposition that the government which we propose to give to that country shall be a good government, that it shall be a government which will better their condition, and that it will be one which in its administration will be consistent with free institutions.

That proposition, while of course a very much more considerate one than the extreme of the subjugation of a people, is still inconsistent with free institutions. Wherever a people are required to render an obedience which is involuntary, that requirement is an enslavement of that people.

There are different degrees of enslavement. If we put our yoke upon a people, if we rule them arbitrarily, if we send them governors and judges, if we make laws for them without their participation, if we enforce obedience to such laws by our army, then it is an absolute enslavement. If, on the contrary, we allow them free institutions, but at the same time prescribe to them that they shall owe allegiance to a government against their will, it is none the less an enslavement, although less in degree.

Mr. President, there is but one government among the leading nations of the earth that recognizes the right of self-government in a people, that recognizes that the consent of a people is an essential to their government, and when this Government practically denies that right, in the march of free institutions the hand upon the dial of the clock of the world has been set back an hundred years.

It is impossible to conceive that this Government will knowingly and purposely deny to a people the right of self-government; it is incredible that the liberty-loving people of this country will by force of arms impose a government upon another people against their will—a people who owe us no allegiance—who are struggling to be free. There is no public man who will admit that he is in favor of that proposition; there is no official, no Senator, who would not repel the charge, if it were made against him, that he would thus violate the right of self-government.

Mr. President, Senators argue as to the power of the Gov-

ernment to acquire dominion over foreign territory; they argue as to the duty of the Government to exercise this authority; but when the question is squarely put to them, when the issue is put where it cannot be evaded, "Do you favor the subjection of another country and the imposition of the power of this Government without the consent of that people?" they shrink away from the acknowledgment of such a position.

Mr. President, when we declared war against Spain, there was no way by which we could reasonably anticipate what would be the nature and extent of the sacrifice we would be called upon to make. Our cities were unfortified, and the newspapers were burdened with accounts of the great number and power of the Spanish men-of-war. We knew the fact that our young men who would respond to the call of arms would have to march in Cuba against more than 100,000 seasoned and disciplined Spanish soldiers. There was every prospect that we would have to undergo great sacrifice. There was every prospect that the soil of Cuba would be enriched with the blood of thousands of our young men.

Mr. President, when in that solemn moment we stood forth to dare and meet the necessary sacrifice, we called upon God and men to witness the purity of our motives and the unselfishness of our intentions. We declared in language almost identical with the language of the resolutions which I have had the honor to introduce that we did not propose to wage this war for aggrandizement, that we did not wage it for conquest, but that we waged it, or proposed to wage it, in the interest of humanity. We declared that when a stable government was secured in Cuba we would withdraw from that island and leave the affairs of that country to its own inhabitants.

That war has practically passed; the sacrifice which we anticipated was not exacted of us; the sacrifice in life was comparatively trifling; a special danger which we anticipated did not come, for behind all of the anticipations of possible sacrifice of blood and treasure there was the specter, which we now remember, although we may in the hour of victory have forgotten it, of the possibility of European intervention and a consequent world's war. Not only has there been little sacrifice, but there has been no intervention, and there will be no intervention, and we now know not only that we are to do as we see fit in Cuba, but that we are to work our will with the Philippine Islands so far as other nations are concerned.

What I desire, Mr. President, by these resolutions is this: That now, in the hour of our victory, in the time of our undis-

puted physical power, we shall accord to the Philippine Islands exactly what we proposed in the beginning, when the matter was in doubt, we would accord to the Cubans.

When the declaration of war was made the Philippine Islands were not within the contemplation of Congress. We were thinking only of the Cubans. But suppose when the learned Senator from Colorado [Mr. Teller] introduced his fourth resolution as an amendment to those resolutions, in which we declared substantially what is declared in these resolutions, that the war was not to be waged for aggrandizement or for conquest, but that we proposed at the proper time to surrender the control of Cuban affairs to the Cubans—suppose when that amendment was proposed there had been a further amendment proposed excepting the Philippine Islands, and suppose we had said that, while we did propose to deal thus with the Cubans, so far as the Philippine Islands were concerned, we proposed, if we could take them, to do so, and to appropriate them to ourselves. With the feeling then upon us, with the intention which we then had to exhibit to the world the purity of our motives, can there be any doubt as to the action of Congress in voting down those resolutions?

If we had passed resolutions and made the exception as to the Philippine Islands, it would have utterly defeated the purpose of the disclaimer in those resolutions. If, on the contrary, we had expressed at the time our intention with reference to Cuba, and purposely withheld our expression of intention with reference to the Philippine Islands, it would have been the practicing of an unworthy deceit; and there is no principle which was involved in the disclaimer with reference to the Cuban people which does not also apply to the Filipinos; and the object I have in these resolutions, Mr. President, is that we may put ourselves in that position.

If the ideals which we had at that time required that announcement with reference to Cuba, if our past history required it, if the recognized principles of our system of government required it, they all equally require it with reference to the Philippine Islands.

In the first place, if we make this declaration, in my opinion it will be a practical settlement of all the questions which grow out of the adjustment of matters with Spain; in the second place, what is not less important, and, indeed, more important, it will relieve the Government of the United States from a most embarrassing position now occupied in the Philippine Islands.

We cannot shut our eyes to the fact that there is danger of

collision in the Philippine Islands; we cannot shut our eyes to the fact that there is there an American army and that there is there a Philippine army, and while there is no declaration of war between them, while there is no announcement of hostile intent, each is animated by a different purpose and a different resolve.

Whatever may be the intention of the civil officers of the Government, the thought and feeling is in the minds of the American army that they are to take possession of the Philippine Islands; and there can be no doubt that an equal determination and thought is in the minds, not only of the Philippine army, but of those who direct and control it, that our army shall not take possession of the Philippine Islands.

Why is it, Mr. President, that the Filipinos refuse to recognize the right of the American troops to occupy the islands? Is it because they are hostile to American troops? By no means. Is it because they are unwilling that the United States Government shall assist them in the establishment of a government? Certainly not. Is it because they are reluctant that the United States shall hold possession until it can be ascertained whether or not they can be safely left without becoming a prey to other foreign governments? Assuredly not.

They would be glad to have the United States troops there with the avowal of such purposes from the United States Government, but they are opposed to the occupation of their islands by the United States troops because of the apprehension that it is the purpose of the United States Government to maintain permanent dominion in those islands; and whenever we shall, by such resolutions as these, say solemnly to the world that such is not our purpose, there is no longer any danger of difficulty. Without it, even as we sit here to-day, there is very great danger of it.

It is a famous saying that the shot at Concord rang around the world.¹ If that shot, Mr. President, which we dread and fear, should be heard at Manila, or in any other part of the Philippine Islands, it also will ring around the world, but it will carry no cheer to the downtrodden and the oppressed.

We hear a great deal about the obligations which we owe to the Philippine Islands. Some curious logic has been evolved on this question. Ordinarily the man who is under obligation is the one who has to contribute something for the benefit of the man to whom he is under obligation. The obligor is the man who bears the burden; the obligor is the man who makes the sacri-

¹"Fired the shot heard round the world."—"Battle of Concord Bridge," by E. W. Emerson.

the alliance of the Filipinos, we necessarily recognized that they were in the prosecution of a rightful rebellion; we necessarily practically recognized them as belligerents.

They were there engaged at that time in a rightful rebellion, or they were bandits; they were, in the latter case, outlaws, and the United States authorities had no right to accept of their co-operation and their alliance. There is no refinement of reasoning, there is no finesse of logic which can get away from the conclusion that when we sailed into Manila Bay and recognized those people as rightful belligerents, put arms and ammunition in their hands, and accepted of their co-operation and their alliance, we not only became, by every high and honorable obligation, bound to see to it that the power of Spain was broken in the Philippines, but we fell under an obligation, no less imperative, that when it was broken the Filipinos should get the benefit of it, and not the American people. My contention is that we certainly incurred that obligation, and that it is the only obligation.

We went to war with Spain not for the purpose of correcting all the evils with which her people were afflicted; we did not undertake to be the great universal benefactor and to right all the wrongs of all the world. We went to war with Spain because a particular colony which she was afflicting lay at our doors; we went to war because the disorders of that government affected the peace of our community and were injurious to our material interest. We said there was a condition of affairs which was unbearable and that we would put an end to it.

To that extent and to that alone we claimed and avowed the reason for the declaration of war. So it follows that the mere declaration of war did not affect in any manner our relations with the Philippine Islands except to put us in a state of war with them as a part of the Spanish domain, and in no manner laid any obligation upon us as to those islands. We were not charged with the duty of preserving order in Asia.

Another obligation that it is contended we owe to the islands is to see that no foreign government interferes with them. That is a very large undertaking on our part, because it has to extend to all the future. Mr. President, I do not admit any such obligation. We have nobler uses both for the treasure and the young manhood of this country.

The main question with me is, what is our duty to ourselves and how will our own people be affected by such a course?

What is the effect of the acquisition of the Philippine Islands? It will be an entirely new departure. It will commit

fice; the obligor is the man who pays the debt. The obligee is the man who receives the benefit from the obligor.

Yet, in this instance, those who favor the acquisition of the Philippine Islands, and who try to put it upon the high ground that we are under obligation to the Filipinos, reason it out that we, the obligors, are to receive the islands in discharge of the obligation! Without stopping to analyze so untenable a proposition as that, I desire to ask the attention of the Senate to the consideration of the question, What are the obligations that we owe to the Philippine Islands or to their inhabitants?

Outside of one fact which I propose to mention, I do not think we owe any greater obligations to the Philippine Islands than we owe to any other possessions of Spain. But there is one fact which did devolve upon us a peculiar and special obligation. That fact is that at the time when we sent our fleet to the Philippine Islands the Filipinos were, and had been for years before, in active rebellion against the power of Spain.

When we went there to attack Spain we accepted of the co-operation and alliance of the Filipinos for the purpose of furthering our cause. We gave arms and we gave ammunition to them, and while the war progressed there was over a month after the battle of Manila during which there was not an American regiment upon the Philippine Islands, and during all of that time the Spaniards were beleaguered by Dewey on the sea and Aguinaldo on the land in co-operation and alliance.

Now, it is a sound proposition that that fact laid an obligation upon the United States, and only one obligation, and that obligation was that we would not make peace with Spain without breaking the power of Spain in the Philippine Islands. That obligation was laid upon us. It would have been a gross breach of faith if we had not required that Spain should relinquish her power in the Philippine Islands.

But what was the necessary corollary of the performance of that obligation? Could it be said that the obligation growing out of that co-operation and that alliance was discharged by requiring Spain to relinquish her power in the Philippine Islands, and by then taking those islands for ourselves?

Mr. President, if so, with equal force it might have been urged at the conclusion of our Revolutionary war that France should make a treaty with Great Britain and take thereunder a cession of the American colonies. The very same facts which laid upon us the obligation to break the power of Spain in the Philippines laid upon us the obligation to recognize the freedom of that people. When we accepted of the co-operation and

us to a colonial policy necessarily, because it is not possible, it is not within the contemplation of the American people, that the Philippine Islands should ever be converted into a State or into States and admitted into participation in the affairs of this Government.



THE NEW MEMBER OF THE ORCHESTRA
From "Cartoons of our War with Spain, by Ch. Nolan"

The logic of the situation will be to acquire additional Asiatic territory, and after that to reach out for still more. There is no reason for the acquisition of the Philippines which will not apply to the acquisition of other parts of Asia, each acquisition furnishing a reason why another part still beyond should be also acquired. The acquisition of the Philippines will commit this Government to the colonial or imperial policy. The

logic of that policy will certainly require that we actively enlarge our efforts and seek to bring under our dominion all countries whose people are too weak to resist our colossal power, and which have not already been added to the land-grabbing and nation-appropriating governments of Europe.

This reach-out for empire will inevitably lead to wars; not such wars as the little one, with its trifling sacrifices, through which we have just passed; but great wars, with all their sacrifices. It means vast armies, composed in large part of our young men, ready on a day's notice to cope in bloody conflict with the great military powers of the earth. It means peace at evening, perhaps, with no certainty but that the morrow will find us participants in a world's war.

Mr. President, if we are to enter into the struggle for foreign dominion and empire, we cannot escape the ever-present danger of war which, like an angry, never-disappearing cloud, year in and year out, hangs over Europe. The nations of Europe are watching with keen anxiety the course which the Government of the United States will take in this matter. England especially is showing the keenest interest and anxiety. Why is it? Why has England this interest? Why has she this anxiety that we shall take the Philippine Islands? Why is it that the London papers are daily burdened with exhortations to our people and to our Government to acquire and exercise dominion in the Philippine Islands? Is it because England is so anxious that we shall be aggrandized? Is it because England is so anxious that we shall increase our power, or has she a selfish motive in it?

Mr. President, an Associated Press dispatch which came from London on the 14th of this month, and which was published in our Sunday papers, shows what the motive is with England and why she has this anxiety. I read part of it:

LONDON, January 14.

When the American correspondents succeeded in impressing upon the British mind that Senator Foraker, in his recent speech in the United States Senate, spoke only for himself when he suggested that the United States might eventually withdraw from the Philippine Islands, a distinct sigh of relief might have been read between the lines of the British newspapers.

Everyone here assumed that because the Senator was from the President's State he was speaking for the President, and the declaration made not only succeeded in giving British public officialdom an unpleasant shock, but it felt like a dash of cold water on the ardor of the British for an Anglo-American understanding. They began to question what was the profit of this friendship if America did not propose to back up Great Britain's policy in the far East by retaining the most important base of operations in the event of a war over China.

of people in the Philippine Islands, nothing but the strong hand, nothing but cruelty, nothing but the iron rule will enable us to maintain that dominion.

Mr. President, I do not want any such transactions under the American flag. I do not want it to be that we will have to send governors and judges there to be brought back here to be tried for their oppressions of a people like them. I want no Warren Hastings arrayed before the bar of the Senate to be tried upon impeachment articles for oppressions of a people whom we are seeking to rule.

Mr. President, the greatest curse that can befall a people is war, even though that war be, as has been the last, an unbroken series of victories; not simply because it involves death and bloodshed, but because it accustoms our people and familiarizes them with scenes of violence and of blood; because it accustoms them to the idea of military rule rather than the peaceful agencies of civil government; because it weakens our reverence for and obedience to the great constitutional limitations which have been set up as the guardians of personal and political liberty; because there is no war but what, to a certain extent, works a revolution in the free institutions of the country; and because it is generally depraving and demoralizing to the public sentiment.

And, Mr. President, if I may be pardoned in this presence for saying it, I know of no greater illustration of the demoralizing and poisoning effects of war than we find in the fact that there are those who are now advocating a course which must lead to interminable wars, who but two short twelvemonths since stood here the very apostles of peace, the uncompromising opponents of war, and the extreme advocates of the establishment of a permanent board of arbitration which should forever make war impossible and settle all international disputes by arbitration.

And, Mr. President, as war is the greatest curse, peace is the greatest blessing. Peace is ours if we will have it; but if we do not have peace by our will, then we will have wars against our will.

Mr. President, as I close the thought which impresses my mind is the importance to us that we should preserve our institutions and the principles of our Government, and that at the same time we should preserve the peace of this people; and these things, Mr. President, are worth more to us than all the treasures gathered from subject peoples, and more than the dominion of all the islands of the seas.

Mr. President, if that war comes it will not be confined to the Orient. If that war comes it will involve every leading nation of the world. If that war comes, not only will our young men lay their bones upon the distant soil of Asia, but our own country will have to stand its defence. When that war comes, there is not a sea-coast city but that will be in danger of destruction from the allied navies of the world. This may be a remote possibility, but if so it is a possibility so fraught with disaster to the United States that I will do nothing to tempt so dire a fate.

Again, Mr. President, do Senators consider the Herculean task which we undertake when we say that we will maintain a military establishment in the Philippine Islands? Do they realize that even when not at war with a foreign power we must maintain there an army of at least 30,000 men? Do they for a moment realize what it is to transport a hundred thousand men across the sea? And yet, if we became involved in a war with a foreign power, we would have to transport more than a hundred thousand men across the Pacific Ocean.

If we become involved in a war with a foreign power, the Philippine Islands will be our weak spot. It was the weak spot of Spain, and we struck it first because it was the weak spot, and if we succeed to her dominion it will be our weak spot, and any foreign government with which we engaged in war would strike that first.

Mr. President, I am going to suggest but one more thought. It has been suggested by another portion of the dispatch from London which I read, which quotes the London *Spectator*. In speaking about the Americans and the Philippine Islands, the paper, which this dispatch calls "the solemn *Spectator*," says as follows:

Fifty years hence, under American control, the Filipinos will be orderly, law-abiding persons, like our own Hindoos.

Fifty years, Mr. President; fifty years of burden to the American people, fifty years of a great army and a great navy, fifty years of liability to world's wars to get them into the condition of the Hindoos!

Why, Mr. President, I was a schoolboy at the time of the Sepoy Rebellion, and I shall never forget the impression made upon me in looking at the pictorial newspapers, *Harper's Weekly* I recollect particularly, with the pictures of the sepoys bound to the mouths of cannon and blown to pieces. And, Mr. President, if we are to maintain dominion over these millions

On January 24 Henry Cabot Lodge (Massachusetts) supported the annexation of the Philippines.

I stand on the broad proposition laid down by Webster in debate in 1849, that the Territories are not part of the United States, but belong to the United States, as England's colonies belong to England. It does not alarm me to hold this doctrine of constitutional law merely because it can be easily pointed out that the supreme power which Congress may exercise over territory within its jurisdiction, but not within the limits of the United States, is capable of abuse.

Constitutions do not make people; people make constitutions. Our Constitution is great and admirable, because the men who made it were so and the people who ratified it and have lived under it were and are brave, intelligent, and lovers of liberty. There is a higher sanction and a surer protection to life and liberty, to the right of free speech and trial by jury, to justice and humanity, in the traditions, the beliefs, the habits of mind, and the character of the American people than any which can be afforded by any constitution, no matter how wisely drawn. If the American people were disposed to tyranny, injustice, and oppression, a constitution would offer but a temporary barrier to their ambitions, and the reverence for the Constitution and for law and justice grows out of the fact that the American people believe in freedom and humanity, in equal justice to all men, and in equal rights before the law, and while they so believe the great doctrines of the Declaration of Independence and of the Constitution will never be in peril.

Holding these views as to our constitutional powers, the great question now before the American people resolves itself, in my mind, to one of policy purely. There is only one question demanding actual and immediate decision now before Congress and the people, and that is whether the treaty with Spain shall be ratified or not.

I have heard no opposition expressed to any part of the treaty except such portion of it as relates to the Philippines, and that, therefore, is the sole point upon which I desire to touch. In our war with Spain we conquered the Philippines, or, to put it more exactly, we destroyed the power of Spain in those islands and took possession of their capital. The treaty cedes the Philippines to us. It is wisely and skillfully drawn. It commits us to no policy, to no course of action whatever in regard to the Philippines. When that treaty is ratified, we have full power and are absolutely free to do with those islands

as we please; and the opposition to its ratification may be summed up in a single sentence, that the American people and the American Congress are not to be trusted with that power and with that freedom of action in regard to the inhabitants of those distant islands. Every one of the resolutions thus far offered on this subject is an expression of distrust in the character, ability, honesty, and wisdom of the American people and an attempt to make us promise to be good and wise and honest in the future and in our dealings with other people. It is a well-meant effort to make us give bonds to fate by means of a Congressional resolution.

We must either ratify the treaty or reject it, for I cannot suppose that anyone would seriously advance the proposition that we should amend the treaty in such a way as to make pledges to Spain, and to Spain alone, and give bonds to Spain, and to Spain alone, for our good conduct in a matter which will be wholly our own to decide. Let us look, then, at the two alternatives. Suppose we ratify the treaty. The islands pass from the possession of Spain into our possession without committing us to any policy. I believe we can be trusted as a people to deal honestly and justly with the islands and their inhabitants thus given to our care. What our precise policy shall be I do not know, because I for one am not sufficiently informed as to the conditions there to be able to say what it will be best to do, nor, I may add, do I think anyone is. But I believe that we shall have the wisdom not to attempt to incorporate those islands with our body politic, or make their inhabitants part of our citizenship, or set their labor alongside of ours and within our tariff to compete in any industry with American workmen. I believe that we shall have the courage not to depart from those islands fearfully, timidly, and unworthily and leave them to anarchy among themselves, to the brief and bloody domination of some self-constituted dictator, and to the quick conquest of other powers, who will have no such hesitation as we should feel in crushing them into subjection by harsh and repressive methods. It is for us to decide the destinies of the Philippines, not for Europe, and we can do it alone and without assistance. I believe that we shall have the wisdom, the self-restraint, and the ability to restore peace and order in those islands and give to their people an opportunity for self-government and for freedom under the protecting shield of the United States until the time shall come when they are able to stand alone, if such a thing be possible, and if they do not themselves desire to remain under our protection. This is a great, a difficult, and a noble

task. I believe that American civilization is entirely capable of fulfilling it, and I should not have that profound faith which I now cherish in American civilization and American manhood if I did not think so.

Take now the other alternative. Suppose we reject the treaty or strike out the clause relating to the Philippines. That will hand the islands back to Spain; and I cannot conceive that any American should be willing to do that. Suppose we reject the treaty; what follows? Let us look at it practically. We continue the state of war, and every sensible man in the country, every business interest, desires the reestablishment of peace in law as well as in fact. At the same time we repudiate the President and his action before the whole world, and the repudiation of the President in such a matter as this is, to my mind, the humiliation of the United States in the eyes of civilized mankind and brands us as a people incapable of great affairs or of taking rank where we belong, as one of the greatest of the great world powers.

The President cannot be sent back across the Atlantic in the person of his commissioners, hat in hand, to say to Spain with bated breath, "I am here in obedience to the mandate of a minority of one-third of the Senate to tell you that we have been too victorious, and that you have yielded us too much, and that I am very sorry that I took the Philippines from you." I do not think that any American President would do that, or that any American would wish him to. Still less do I think that any American would withdraw General Otis and his soldiers and recall Admiral Dewey from the scene of his great victory, leaving it to be said of us that we had deserted our post without an effort to repair the ruin we had made or to save the people we had freed with—

One task more declined, one more footpath untrod,
One more devil's triumph and sorrow for angels,
One wrong more to man, one more insult to God.

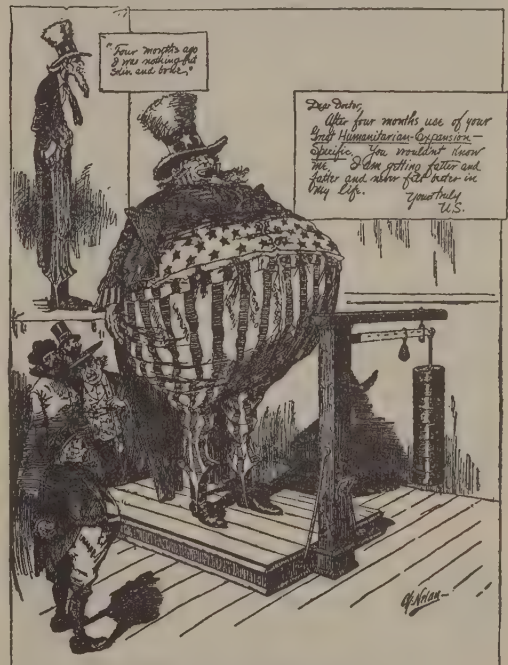
Therefore, Mr. President, by rejecting the treaty we renew the state of war. The protocol is but the agreement of the commander-in-chief. When the treaty fails, it could be torn to pieces; but, whether it is thrown aside or not, still we are in a state of war, and the subjects of Spain, among whom are numbered to-day the Filipinos, would be the public enemies of the United States by all the laws of nations. There, then, would be the President, with the country at war with Spain, armed with the war power, which he can use unchecked as the com-

mander-in-chief of the army and navy. The treaty commits the disposition of the Philippine Islands to Congress and to the ways and practices of peace. Its rejection leaves them in the sole power of the President, subject to the usages and practices of war alone.

There has been a great deal said, Mr. President, about the Declaration of Independence and its principles, and about conscience and morality. I am sure, Mr. President, that there is no Senator upon this floor, no matter what his views on this question may be, who would not cut off his hand sooner than be false to the principles of the Declaration of Independence and to the great traditions and ideas of American history; but I do not believe, Mr. President, that devotion to the Declaration of Independence is confined to the minority in this chamber any more than I believe that they have a monopoly of conscience or of morals. There is no magic in the word "minority." A minority is not necessarily wiser and better than the rest of mankind because it is a minority, any more than a majority is so by mere virtue of its name. I believe in the rule of the majority, because I believe that in the long run the majority is far more likely to be right than the minority, and I have no faith in Matthew Arnold's self-complacent doctrine of "the remnant." Great policies and great questions must be decided by higher standards and on grounds more relative than this. I have given a large part of my life to the study of the time when this country freed itself from England, and when this Government was established, and of the men who did the great work. No one has a greater reverence for those men and their deeds than I. Nobody loves better than I the ideals set forth in the Declaration of Independence; but my ideals do not stop there. Nor do they stop even with that greater period when the life of the nation was at stake. I have ideals and beliefs which pertain to the living present, and a faith in the future of my country. I believe in the American people as they are to-day, and in the civilization they have created. I believe not merely in what they have done, but in what they are yet to do.

To the American people and their Government I am ready to intrust my life, my liberty, my honor; and, what is far dearer to me than anything personal to myself, the lives and the liberty of my children and my children's children. If I am ready thus to trust my children to the Government which the American people create and sustain, am I to shrink from intrusting to that same people the fate and fortune of the inhabitants of the Philippine Islands? I have beheld with amazement the specters

of wrongdoing which have been conjured up here and charged as possible to the American people. I have been astonished to



BEFORE AND AFTER TAKING

From "Cartoons of our War with Spain" by Ch. Neale

hear outside this chamber men who for three years watched unmoved the torture of Cuba pleading with fervid eloquence for the Filipinos, just rescued by us from Spain, against the possible cruelty which Americans might inflict upon them. Denuncia-

tions which might have been suitable to Weyler have been applied to imaginary deeds of cruelty to be performed at some future time, date not specified, by a humane and able American President and by American soldiers and sailors who have within six months shown themselves in the heat of battle as merciful and tender as they were brave and daring. Mr. President, all this is so inconceivable to me that I cannot comprehend it. I can look at this question in only one way. A great responsibility has come to us. If we are unfit for it and unequal to it, then we should shirk it and fly from it. But I believe that we are both fit and capable, and that therefore we should meet it and take it up.

On January 31 James H. Berry (Arkansas) opposed annexation of the Philippines.

Mr. President, if in November, 1896, it had been known or generally believed throughout the United States that within less than two years from the date of his inauguration the President of the United States would be asking Congress to grant a standing army of 100,000 men for the purpose of being used to subjugate and subdue a people 7,000 miles away from our territory, who were seeking to form a government of their own, he would not have received the electoral vote of a single State in this Union.

Mr. President, if less than one year ago, when the junior Senator from Massachusetts [Mr. Lodge] read from that desk to the Senate of the United States the Farewell Address of the Father of our Country, it had been asserted here that in less than twelve months from that time that Senator and a majority of his associates upon this floor would be advocating a policy which contradicts and disregards every word and every sentiment contained in that wonderful letter, that Senator would indignantly have denied it and resented it as an imputation upon his patriotism.

And yet we have gone forward, or backward, as you may choose to regard it, with such bewildering rapidity that to-day every man who dares to raise his voice in the way of protest against this radical departure from our time-honored beliefs, traditions, and professions is denounced as a traitor to his country, an ally, aider, and abettor of Malays, negroes, and savages.

When the protocol for peace was signed on the 12th day of last August, I think it could have been truthfully said that there had never been a time since the organization of the Gov-

ernment when the American Republic commanded so much respect from the nations of the world, and never a time when its own citizens felt for that Republic so much love, so much devotion, and so much admiration. Less than six months have passed and there are thousands and tens of thousands of intelligent and patriotic citizens who sincerely believe that the danger of the destruction and overthrow of our institutions has never been so great as it is to-day.

What has been the cause, Mr. President, of the remarkable change in the policy of our Government? What has been the mighty influence that has caused us to depart from the teachings of our fathers and to enter upon a course of action directly opposed to all that we have ever professed. Mr. President, men do not always agree as to causes and effects, but it seems to me that the all-powerful force that is pushing us on to destruction can be easily found. In 1896, for the first time since the organization of the Government, all of the great combinations of wealth, all of the great corporations, all of the trusts, all of the syndicates, boards of trade, merchants and manufacturers' associations and exchanges of the great cities, were united in the support of the same candidate for the Presidency. They were associated together as, and assumed for themselves, the name of the business men of the country. Many of them boldly claimed that the men who owned the wealth and property of the country had a right to dictate the policy of the Government and to name its Chief Magistrate. This powerful combination of wealth was able to control nearly all of the great daily newspapers, and they succeeded in electing William McKinley President of the United States.

Mr. President, it is largely the same element, the same mighty influence, which is to-day, under the plea that the United States must have a wider and broader field for trade and commerce, pushing us to a line of action that threatens the very foundation of the Republic.

The cause for the universal rejoicing of our people at the close of the late war can be easily understood. We had fought to make others free as we ourselves were free; we had disclaimed, in the act declaring war, any intention of acquiring territory in Cuba. The President himself had said that the forcible acquisition of territory would not be tolerated by the American people, and that such an attempt would be criminal aggression. The American people were proud because they had done a brave and generous and unselfish deed, which would be a gratification to them and to their children in all the years to come.

They had no thought then that the great combinations of wealth and greed would be able thereafter to unite and bring to bear such a mighty influence as would control the public press, to a large extent public sentiment, the President, and the Senate of the United States, and secure the adoption of a policy that would hereafter forever dim and obscure the glory that they had fairly won.

It has been often said, Mr. President, that we hold those islands and that we cannot turn them loose. That is not true. Except the city of Manila and the bay and harbor we do not hold those islands either in law or in fact, and, Mr. President, the city of Manila itself was never captured until after the protocol of peace was signed, under the terms of which our rights were confined to the defences of the city of Manila and its bay and its harbor.

Those who support the treaty urge this as a reason why there should be a speedy ratification of the treaty in order that General Otis may be at liberty to move forward his battalions to crush the Philippine government and slaughter those who resist. They insist that we must agree to a treaty by which we promise to pay Spain \$20,000,000 in order to obtain her consent to make war upon those who were our allies in the recent contest; and we are told that any party or individual who refuses to give his consent to this proposition will meet with the indignation of the American people. Mr. President, it may be true; I do not know; but it seems to me that when the excitement of the hour has passed away and impartial history comes to be written the men who are urging the forcible acquisition of foreign territory will not be proud of the record they are making.

But it was said by the President of the United States in one of the speeches he made on his Western tour that it is destiny, and we must meet it and accept it. Mr. President, the plea of destiny as an excuse for any course of action is an admission that no other reason can be given. If destiny is a sufficient excuse for wrong, then there is no crime however great and no infamy however degrading that a nation may not commit under that name. And we are told again that we must conquer these people in the interests of humanity and for their own good, that we must entail enormous expense upon our own people, that we must drag our youth to that far-off land, and kill and slaughter hundreds and, it may be, thousands of these people, in order that we may civilize and Christianize the remainder.

Mr. President, this is the same excuse, the same false pretence, that has been given by every nation of the world which

sought to impose its government upon another people. This is the same excuse that was given by Spain when Cortes marched through Mexico and Pizarro through Peru, leaving burning houses and murdered men and women and children in their pathway. When Lord Clive and Warren Hastings robbed India and committed outrages that shocked the civilized world, England said that this was done in the interest of humanity; that this was done in order to extend English commerce. So the same excuse was made by Austria and Prussia for the destruction of Hungary and Poland, and the same excuse was given by George the Third when he made war upon the colonies in this country.

But I am asked if I think our people are as bad as theirs. I answer no, Mr. President, I do not think they are; but the reason why I do not think they are is because they have never indulged in these practices in the past. But the very moment we attempt to govern foreign territory against the will of the inhabitants, the chances are, if history can be relied upon, that we shall grow worse year by year.

Mr. President, those of us who live in the States of the South have some knowledge of the wrongs and outrages that may be perpetrated even by Americans where they seek to govern by strangers and by military power an unwilling people. Fortunately for our Republic, the people of the North learned in time that such government could not be continued without danger to every part of the Union, and I remember what universal applause from every part of the country greeted the statement made by the Hon. Charles Foster, of Ohio, when he said in the House of Representatives in 1877 that thereafter the flag of the country should wave over States and not provinces.

No, Mr. President, the plea of humanity is not the true cause of this movement. It doubtless has controlled the judgment of some, but the all-powerful force behind it is the desire of extending trade and commerce.

But it is said that the disposition of the Philippines will be a matter for determination after the treaty is ratified; that, after we have concluded the bargain by which we purchase the sovereignty of the islands and the right to control these people, after we have paid Spain \$20,000,000 for these people, and after we have, by force, if need be, destroyed their present government, we may conclude at some time in the far distant future to give them a chance to form a new government, and we will then cease to control. Does any man believe that such is the purpose? Has the President of the United States ever avowed

such a purpose? Does not the treaty itself show that it is not the purpose? The language of the treaty in the case of Cuba and that of the Philippines is purposely different. Cuba is not ceded to the United States, but Spain simply relinquishes her sovereignty. The Philippine Islands are ceded. Do you not today refuse absolutely to amend the treaty so as to make the promise to the people of those islands the same as that which we have given to Cuba? And have you not day by day refused to pass a joint resolution containing any kind of promise to those people? And yet we have men who are sufficiently credulous to believe, after the bond has been signed and sealed and the money paid, that in the far-off future you will do then what you even refuse to promise to do to-day.

In addition to this, Mr. President, it has been urged upon us that, if we do not at once ratify the treaty, in all probability there will be a collision between our people and the people of the Philippine Islands; and it has been said that those on this floor who oppose this policy would be responsible. Mr. President, it seems to me that, if we ratify the treaty and give the authority to General Otis to move forward with troops, a collision will be inevitable; and if that collision comes I want it understood now that the responsibility will rest upon those who have changed a war begun for humanity into one that is being prosecuted and carried out for the sake of the acquisition of territory.

SENATOR PLATT.—I wish to say here that I believe the negotiation of this treaty reflects the greatest honor upon the diplomacy of the United States of any treaty that has ever been negotiated. It is a diplomacy which honors the United States, which honors its armies, which honors its navy, which honors its traditions, which honors its Declaration of Independence, which honors free government and the cause of humanity in the world.

But, Mr. President, while this treaty has been in process of negotiation an ambitious leader in the Philippine Islands has been raising revolt, and I say revolt against the United States and its Government and its navy and its army. He is to-day a Spanish citizen arraying Spanish subjects against the United States. He had a great opportunity to do so, because by the terms of the protocol, by the operation of international law, he had a free field for his operations. We had taken all effective Spanish soldiers in the island prisoners, so that Spain could not resist him. We had tied our hands by the protocol until a treaty of peace should be declared, so that the United States could not resist him.

the treaty, unless a minority of the Senate can compel the majority to vote for them.

With the passage of the joint resolution and the ratification of the treaty secured, as they tell us it may be by the passage of the joint resolution, how is the United States going to maintain the slightest authority thereafter in the Philippine Islands for any purpose, either in the city of Manila or elsewhere, except by consent of Aguinaldo and his insurgent band and his shadowy congress? Is the Senate of the United States going to place itself in that position?

On February 2 John C. Spooner (Wisconsin) upheld annexation.

A great point is made against the ratification of the treaty upon the theory that it violates the Declaration of Independence, particularly that phrase in the Declaration which asserts that "all government derives its just powers from the consent of the governed." No one, I presume, will deny the philosophical truth of that declaration.

It is like the declaration "All men are born equal." Philosophically and in a subtle and abstract sense that is true. In the world, in the practical life of the world, it is not true, and it never has been true. "In the corrupted currents of this world" it is impossible for men or for nations in all their conduct to be governed by strict abstract right.

Never since the foundation of this Government have we in the acquisition of territory paid the slightest attention to the "consent of the governed." Thomas Jefferson, who, as the author of that great Declaration, won undying fame, was the first man under our Government to violate it by the acquisition of Louisiana. No one asked the consent of the inhabitants there to a transfer of their allegiance or a transfer of the territory.

The same thing was true of Florida. The same thing was true at the end of the Mexican war when we acquired California, Utah, and the territory west of the Missouri. Who ever asked the consent of those people?

There have been many instances in our history, not related entirely to territory, either, in which as a matter of practical affairs that abstraction could not be regarded. I cannot stop to mention them, nor do I care to. It never can be until the millennium comes. It never can be while government is intrusted to men and holds sway over men. It never can be until perfection comes into life, and until the weaknesses, the passions, the vio-

By reason of the situation free course was given him in all his operations. He has gathered an insurgent band and to-day gives notice to the United States that unless he is recognized as the ruler of that territory he will contest his right by armed attack upon the armies of the United States. The situation is critical. He is in arms, using the arms which the United States furnished him, and in arms against the United States authority. That is the situation. Against whom else is Aguinaldo in arms? Against whom else are the threats of warfare? The ratification of a peace treaty will give the United States rights which it does not possess now. It will give the United States the right then to say, "We are in control of these islands, attack us if you dare," and in a very short time, without warfare, this insurgent band will melt away, better counsels will prevail, and a government superior, immensely superior, to anything which Aguinaldo could establish there will bless the inhabitants of those islands.

To defeat this treaty relegates us to a state of war legally. What will happen then no human being knows or can foresee. Whether actual warfare will go on, or whether Spain will submit to what she will consider a game of the United States played upon her and say to us, "We have no more treaties to make; we made one and you refused it; do your worst"; and thus keep us interminably in a state of legal war, or whether she may negotiate some new treaty, no human being knows. It is probable, Mr. President, that she would insist, as I think she might have a right to insist, in morals if not in law, that if we do not take the Philippines, which she has agreed to cede to us, we shall at least restore her to the position which she occupied in the Philippines at the time the peace commissioners met. That would be nothing but fairness, Mr. President. I do not say whether it would be law or not.

Will some Senator who wishes these resolutions passed tell me what he proposes, when the treaty is rejected, to have the Government of the United States do, what he proposes to have the commander-in-chief of the army and navy of the United States do?

SENATOR BACON.—I simply desire to say that the object of these resolutions is not to defeat the treaty, but to secure its ratification.

SENATOR PLATT.—This treaty, then, is to be voted against unless the Senate, whether it believes in these resolutions or no, will adopt them. I do not see how that differs from the introduction of these resolutions for the purpose of defeating

lence, the faults, and the foibles of our common humanity are eliminated.

Take the case of Hawaii. I was not in favor, as I have said, of the annexation of Hawaii. It was done by a joint resolution of Congress. Did anyone pay any attention to the consent of the governed? A protest by the inhabitants of those islands, numbering, I think, 14,000 or thereabouts, was presented by the senior Senator from Massachusetts [Mr. Hoar] against annexation. They loved their own country; they wanted their own little independent republic out on those islands in the Pacific sea; they sought no annexation to the United States. But, Mr. President, without regard to this Declaration of Independence, our people annexed those islands and transferred their allegiance to us. More than that, The Senator from Georgia [Mr. Bacon] offered an amendment to the annexation resolutions, providing for a popular vote of the natives on the question.

That was voted down. I announced that if not paired I should vote for it. The senior Senator from Massachusetts [Mr. Hoar] is recorded as voting against it. I do not call attention to that to reflect upon any Senator or any Member of Congress. I call attention to it only as warrant for my proposition, that never has this Government in the acquisition of territory paid the slightest attention to "the consent of the governed."

But there is another thing about it. The doctrine that no territory shall be acquired without the consent of the governed never has been and never can be admitted into international law. It never has been, and so long as the law of conquest exists it never can be permitted a place in peace negotiation or treaty. It is said by Hall:

The rights of a State with respect to property consist of the right to acquire territory, in being entitled to peaceable possession and enjoyment of that which it has duly obtained, and in the faculty of using its property as it chooses and alienating it at will. . . . The principle that the wishes of the population are to be consulted when the territory which they inhabit is ceded has not yet been adopted into international law, and can not be adopted into it until title by conquest has disappeared.

The Senator from Connecticut [Mr. Platt] the other day, in his speech, when asked whether government derives its just powers from the consent of the governed, said, "From some of the governed"; and he was called to account for that—I was about to say lampooned—not once, but many times. I dare to assert here to-day that the Senator's answer was absolutely accurate. It is some of the governed who consent to government every-

where. There is only one place in the world I know of where the exercise of power depends upon the unanimous consent of the governed, and that is the Senate of the United States. [Laughter.]

We must not shackle ourselves. War is wicked. War is brutal. Some one has said it is "organized brutality." It is pitiless. But nations sometimes must engage in it. This Republic was obliged to engage in it, in the opinion of Congress, since sustained, I think, by the public opinion of the United States. When it is waged we, as other nations, must be free to deal with the conditions of peace as best protects our interests.

This is true, too, Mr. President, after all, that, as wicked and wasteful and desolating as it is, it has many times happened, and will happen many times again, that only out of the soil made rich by the blood and the ashes of war can the beautiful flowers of liberty blossom.

And so, not looking at it from the philosophical standpoint, not dealing with it as a mere abstraction, dealing with it as practical men, the servants of a practical people, with a momentous duty imposed upon us, I say that in this case the doctrine invoked from the Declaration of Independence has no place.

It has been asked, Why did not the treaty deal with the Philippines as it does with Cuba? and my understanding is that if such were the form of the treaty it would be generally unobjectionable. What would have been in that event the situation? In my judgment it would have put the Government of the United States in an impossible situation. Let us analyze it for a moment. By this treaty Spain relinquishes her sovereignty over Cuba and her title to Cuba, with the statement, hardly an agreement, that we are to occupy the island, and an agreement that while we occupy it we shall discharge the duties imposed by international law upon a military occupant. Note also that Spain relinquishes sovereignty and title not to any particular grantee.

The President and our commissioners would not accept the cession of Cuba to the United States for obvious reasons. Upon our theory of government it must be true that the sovereignty and title thus relinquished by Spain vest in the people of Cuba. Certainly if they do not vest in the people of Cuba they remain in the kingdom of Spain. They cannot be *in nubibus*. They must be somewhere. I assume that, the title being abandoned by Spain, and the sovereignty relinquished by Spain, they are not relinquished to the world, but are relinquished to the people

vitaly interested in them. Suppose the same provision were incorporated in the treaty as to the Philippines.

What would be the situation? The Filipinos, except the individuals who aided us, have been our enemies in contemplation of law, because the subjects of a power with which we were at war, and the moment a treaty was signed and ratified, relinquishing the title and sovereignty to the Philippine Archipelago, that sovereignty and title, upon my contention, would vest, if it passed from Spain, in the people of the archipelago. That moment, ceasing to be the subjects of Spain, they would, of course, cease to be the enemies of the United States. In fact, the ratification of that treaty would bring peace between Spain and the United States, and, therefore, in law, peace with Spain and her subjects everywhere.

In this condition how would we obtain the right for one moment in law to do what our people feel should be done to save the Filipinos, to maintain order among them, to help them to establish a government, to protect them from anarchy among themselves and spoliation by other governments, and, in addition, what should not be forgotten, the right in the long run to take care of the commercial and other interests of the United States in the archipelago? I can see in that event but one thing that we could rightfully do unless the people acquiesced in our plans, and that would be to withdraw our troops and sail away from the archipelago and leave that people abandoned. Leave them to anarchy. War is bad enough, God knows. It is pitiless enough, but, after all, it is conducted on rules based on justice and framed in the interest of civilization. Anarchy is unspeakably worse than war. Anarchy gives full play to all the passions and bloodthirstiness of men unrestrained by law. War is cruel and bitter, but anarchy is hell let loose upon the earth.

We do not yet know, nor does anyone yet know, I think, what we will deem it wise to do in the Philippine Archipelago. No one can well doubt that the purpose of the United States in accepting this cession is one of benevolence and good will to that people.

But, Mr. President, an acceptance of this cession does not determine at all, in my view, the future policy of the United States as to the Philippines. I am not in favor of the resolution of the Senator from Georgia, not because I differ from the sentiment expressed in the last one, but I am not in favor of tying the hands of this Government as to the future. It is our business to make laws, not to formulate policies.

The irrevocable policy of the American people is to be determined by the American people, not by their uninstructed temporary servants. When they have had time to consider this subject, not when the flags are fluttering and the bands are playing and the troops are marching, but in the calm of their firesides, in the light of debate upon the rostrum, they will render a judgment which must be controlling.

One who is not willing, Mr. President, to rely upon the sober second thought of our people upon this question, and all questions, impeaches the success of republican government. I have no fear that the people who went to war to give liberty to Cuba will in the end arrive at a conclusion which will oppress the Filipinos, or which will violate the Declaration of Independence in the Philippine Archipelago. The ideals upon which this Government is founded are the ideals of the American people. We have not the power to commit them to an unchangeable policy. We have neither right nor reason to doubt that their conclusion will religiously maintain the best ideals of the Republic, and will be in harmony with justice, generosity, and the highest civilization.

John W. Daniel (Virginia) opposed annexation.

The obligation that we owe to the Filipinos is the obligation of comradeship. It is the obligation of fraternity. It is not pecuniary; it is honorary. It comes under that class of obligations which has as its touchstone and its watchword *noblesse oblige*. Having accepted comradeship—call it ally, coadjutor, coöperator, or what not—having accepted the fact of friendship and clasped hands on the perilous edge of battle, we cannot renounce the hand that we there clasped and treat the man or the men who gave us those hands otherwise than as friends.

What is it, Mr. President, if you strike the gun out of the hand in which you put the gun and aim the gun at the breast which touched elbow with your elbow when you went down to battle? What is that? I name it not, but it is not *noblesse oblige*. We cannot leave the Filipinos in the hands of Spain. No, no, no. Americans cannot so treat those who were their comrades.

What next? Recognize their independence as a nation? I say, "No." They have not yet made themselves an independent nation. We do not know whether they can or whether they will make themselves such a nation as can assume international obligations and maintain themselves in the great family of

states. Recognize them and come away from the islands? No; we cannot now come away from the islands. We need only look skyward to see that the birds of prey are circling around the Philippine Islands. We can leave them neither in the hands of Spain nor to become the prey of the first vulture that sweeps upon them.

What next? The face of the treaty tells us how to treat them. Exactly as we have treated Cuba. We are now in military occupation of the Philippine Islands. Let us stay in military occupation of the Philippine Islands until such time as we know more about them than we do, until we have assisted them with our kind offices and with our national prestige and with our force of arms into such destiny as may fitly and justly await them, into such destiny as they have projected for themselves.

What is the difference between doing that, Mr. President, and ratifying this treaty? It is the difference between planting an empire there and maintaining the temporary ascendancy of American power there.

The one thing, such as we have proposed and are doing in Cuba, is essentially transitory; it is ambulatory; it admits of a moment's change. The President of the United States, as the commander in chief of our armies, can withdraw in honor, in propriety, in justice the troops from Cuba whenever good sense and sound policy dictate. Why not leave him to do the same as to the Philippine Islands? With far more reason may we do that as to the Philippine Islands than with respect to Cuba.

Cuba is a natural part of the American continent. It has been, ever since we ourselves have been a nation, within the range and under the sphere of influence of the American Republic. As the Hon. Thomas Francis Bayard said when he was Secretary of State in the first Administration of Mr. Cleveland, we have established a protectorate over the Western World. It has always been and it is to-day under the wing of the people of the United States out of the necessity of our geographical situation. The Philippine Islands have never been and naturally can never so be. Why not, then, leave them in that situation in which we may determine our policy at leisure, studiously, sedately, with full comprehension of all those facts and conditions of which we now claim to know and of which we do know so little?

We stand to-day by the bank of a broader and a deeper Rubicon than ever Caesar meditated beside. At our feet we hear the swash of the great Pacific Ocean, and beyond lies the

expansionists' dream—Cæsar's Rome. Cæsar never did wrong without just cause. That is the imperialistic plea. America will not do wrong without a great temptation. That to-day is the emancipationists' plea. For my country I hope that she will ne'er do wrong.

Let no glittering temptation of trade, let no gold from the gorgeous East tempt her eye or her hand. She stands to-day the foremost nation of the world. She stands to-day the foremost nation that ever the world has seen. Let her tread with secure and steady steps along her own highways, respecting nations and respecting men, putting into the dream of every child that goes to school that vision of liberty of which the Declaration is the great figure and of which the Constitution is the rock-bound foundation. Let her to the tempter of expansion to-day say, as He said who stood upon the mount when the glories of the earth were stretched before Him: "Get thee behind me, Satan."

Mr. President, peace! Peace! This treaty is not a treaty of peace except in formal ceremony with Spain. It is a declaration of war against the Philippine people, not by Congress, but in necessary and logical effect. We know that the Filipinos are in arms. We know that they have an army of from 12,000 to 30,000. We know that they are seeking to work out their own destiny. The moment that this treaty is adopted the Filipinos are made citizens, and the moment they are made citizens, if they do not instantly lay down their arms, they become rebels. The tie of allegiance is created with this Government, and when the President or commander-in-chief says, "Our sovereignty is here; lay down your arms," they bear them no longer, under the penalty of death.

Mr. President, my country—may she ever be right; but my country, right or wrong. That is my doctrine. If the treaty is passed, I believe it is constitutional and authoritative. I do not deny the legal or constitutional right. I accept the fate and the decree of my country, and I stand with my people and my kind. At the same time I know what it means. I would that this cup might pass from us. There is a line of battle in the Philippine Islands of a dusky race, who have reared a flag and who have asked that they might be free. The moment this treaty passes, if they do not lay down their arms, it is the duty of the American President to order it, and it is the duty of the American soldier to shoot them to death and to make them lay down their arms under the penalty of execution in battle.

I hope that may not happen. I pray it may not happen. But, oh, if it should happen, what a conclusion is that of a holy and a righteous war begun for humanity and for liberty, and what justification has this nation before God and man?

Mr. President, there be those who see an American scepter in the eastern sky. It may be that that scepter is there; but if that scepter be there, it is not a scepter that sparkles by the side of the star that shone over the manger of Bethlehem when the shepherds watched their flocks at night and when the wise men, looking for the Messiah, came.

No, Mr. President; I would rather invoke to-day that star which hovered over old Independence Hall on the morning of that 4th of July, 1776, when the world waited the deliverance of a mighty message; I would point to that star, the star of the great northern Republic, founded by the great white race of the northern nations; I would say we go on no war of conquest; I would say that we respect the weakest and the most helpless of mankind; I would say to the men who are fighting for their freedom, be they many or be they few, be they in Cuba or be they in the Philippine Islands, that to them the great American Republic gives the salute of honor and dares not condescend to put her foot upon their necks.

I would point again, Mr. President, to that bright star that beamed over Independence Hall in the bright morning of our birthright, and I would hope that ever hereafter we might say of it that of its—

. . . true-fix'd and resting quality
There is no fellow in the firmament.

[Applause in the galleries.]

On February 4 hostilities broke out at Manila between the Filipino and the American troops. The news of the battle reported in Washington contributed greatly to the ratification of the Treaty of Paris two days later by the Senate.

On this day (February 6) Samuel D. McEnery [La.] moved the following joint resolution:

Resolved, That by the ratification of the pending treaty of peace with Spain it is not intended to incorporate the inhabitants of said islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States. But it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said

islands, to prepare them for local self-government, and in due time to make such disposition of said islands as will best promote the interests of the citizens of the United States and the inhabitants of said islands.

SENATOR HOAR.—I move to amend the joint resolution by inserting, after the words "the inhabitants of said islands," and before the words "a government," the words "with the consent of the people thereof."

The amendment was tabled by a vote of 45 to 34.

SENATOR HOAR.—I move to amend the resolution by inserting after the words "territory of the United States" the words "or to force a government upon them against their will."

This amendment was tabled by a vote of 46 to 30.

Senator Bacon then proposed the following amendment:

Resolved further, That the United States hereby disclaim any disposition or intention to exercise permanent sovereignty, jurisdiction, or control over said islands, and assert their determination, when a stable and independent government shall have been erected therein, entitled, in the judgment of the Government of the United States, to recognition as such, to transfer to said government, upon terms which shall be reasonable and just, all rights secured under the cession by Spain, and to thereupon leave the government and control of the islands to their people.

On February 14 the Bacon amendment came to vote. There were 29 yeas and 29 nays, and the Chair (Vice-President Hobart) cast the deciding vote in the negative. The McEnery joint resolution was then passed by a vote of 26 to 22.

The subject of the annexation of the Philippines was discussed at even greater length in the House of Representatives in connection with various appropriation bills and a bill for the reorganization of the army, but no material points were elicited beyond those brought out in the Senate debate.

As has transpired in the debate in January, 1899, President McKinley appointed a commission consisting of President Jacob Gould Schurman of Cornell University, Admiral George Dewey, General E. S. Otis, Charles

Denby, and Dean C. Worcester to investigate conditions in the Philippines, and to work for the acceptance of American rule by the natives. The commission began its work in March, and on April 5 issued a proclamation to the Filipinos explaining the purpose of their mission.

The proclamation had little effect. Skirmishes continued about Manila, little headway being made in subduing the Filipino forces until late in the year, and early in 1900, when these were driven to the mountains.

In February, 1900, the President intrusted the provisional government of the islands to five civil commissioners: Judge William H. Taft (chief), Dean C. Worcester, Luke E. Wright, Henry C. Ide and Bernard Moses. By January, 1901, the chief local governments were reorganized, an electoral system was adopted with educational and property qualifications, and a constitution provided for each province with autonomy limited by consent of the commission.

On March 23, 1901, Aguinaldo was captured, and forcible opposition to American rule virtually brought to an end. In June the civil and military administrations of the islands were separated, Judge Taft becoming Civil Governor, and courts were created, each consisting of both American and Filipino judges. In September other departments of government were established.

On June 1, 1902, the United States Government enacted a bill for the temporary government of the Philippines, confirming the previous executive orders and extending to the Filipinos the Bill of Rights in the United States Constitution, with the exception of the right to maintain a militia, and the right of trial by jury. By the act a legislature was established, the commission constituting the upper house, and delegates chosen by the qualified electors the lower.

Up to the establishment of civil rule the cost of the Philippine war to the United States was over \$170,000,000.

In the Presidential campaign of 1900 the question of "Anti-Imperialism" was declared to be the "paramount issue" by the Democratic party and its candidate, William J. Bryan. A number of influential Republicans,

including Senator Hoar, supported Bryan on this issue. The reelection of William McKinley was affirmed by the other Republicans to indicate that in the deliberate opinion of the American people the United States had a sound title to the islands and that the government of colonies was not inherently antagonistic to our republican system.

In later Presidential campaigns the Democratic party reiterated its position. Its platform of 1912 favored "an immediate declaration of the nation's purpose to recognize the independence of the Philippine Islands as soon as a stable government can be established—such independence to be guaranteed by us until the neutralization of the islands can be secured by treaty with other powers." It added that in recognizing this independence our Government should retain such land as might be necessary for coaling stations and naval bases.

The Republican platform of 1912 declared that the Philippine policy of the party was "inspired by the belief that our duty toward the Filipino people is a national obligation which should remain entirely free from partisan politics."

CHAPTER VII

NEUTRALITY OF THE ISTHMIAN CANAL

THE CLAYTON-BULWER TREATY

Early Isthmian Canal Projects—The Clayton-Bulwer Treaty—Debate in the Senate on the Treaty: in Favor, John M. Clayton [Del.]; Opposed, Stephen A. Douglas [Ill.]—Later History of the Treaty—Contention of Secretaries of State James G. Blaine and Frederick T. Frelinghuysen That the Treaty Was Obsolete; Lord Granville Declares It in Force.

THE question of an interoceanic canal across Central America arose in the United States and the Latin-American countries shortly after the latter had established their independence, and were seeking an alliance between themselves and with the United States for protection against aggression from European monarchies.

The project formed one of the subjects proposed for discussion at the Panama Congress of American republics, held in 1826 [see Vol. II, page 234]. Henry Clay, Secretary of State, instructed the United States commissioners to the Congress to investigate the practicability and the probable expense of the undertaking along the routes which afforded the greatest facilities.

On March 3, 1835, the Senate unanimously recommended to President Jackson that he open negotiations with the governments of other nations, particularly the Central American states and New Granada (now Colombia), to protect by treaty private companies undertaking to construct an isthmian canal, the treaty stipulations to secure also free and equal navigation forever to the contracting nations on the payment of reasonable tolls to the capitalists.

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In a speech on the resolution John M. Clayton (Delaware) declared:

"If, in completing such a work, fifty or a hundred millions (aye, one-half the money vainly expended in attempting to discover the Northwest Passage) should be expended, it would be a cheaper outlay, and render more benefits to the world, than an equal expenditure in any other enterprise that had ever been or could be undertaken by man."

President Jackson heartily approved the resolution, and on May 1, 1835, sent Charles Biddle of Philadelphia to examine first the Nicaragua route and then the Panama route. Mr. Biddle, acting in his own interests, disobeyed instructions, never visiting Nicaragua, but going to New Granada, where he obtained for himself and other capitalists of the United States an exclusive grant of the right of way across Panama. Returning, he coolly informed John Forsyth, the Secretary of State, that it was "unnecessary to enter into any negotiations with other nations upon the subject."

The President was highly displeased, and Secretary Forsyth, on September 23, 1836, disavowed to New Granada the contract.

The project of an isthmian canal was taken up in 1839 in the House, a memorial on the subject having been presented by the merchants of New York and Philadelphia. The House unanimously passed a recommendation to President Van Buren almost identical with the Senate's recommendation to President Jackson on March 3, 1835.

In 1847 President Polk negotiated a treaty with New Granada in regard to an interoceanic canal or railroad. In his executive message of February 10, 1847, communicating the fact to the Senate he approved the policy adopted by his predecessors and Congress, repudiated the idea of an exclusive grant to the American people, vindicated the principle of equal rights to all nations, and asserted that the canal or railroad should be treated purely as a commercial and not a political project. The treaty was ratified by 29 yeas to 7 nays, every Democrat voting for it.

Zachary Taylor, upon coming to the Presidency in 1849, called Senator Clayton to the office of Secretary of State. Secretary Clayton found that two rival companies, one British and one American (led by Cornelius Vanderbilt), were planning for a canal across Nicaragua. The British company based its claims for the grant upon the pretension that Great Britain was a political power in Central America, being the protector of the Mosquito coast. The American capitalists appealed to their Government for aid in obtaining the grant. President Taylor, in response, sent E. George Squier as *chargé d'affaires* to Central America, superseding the incumbent, Elijah Hise. Squier's instructions, dated May 1, 1849, were to aid the Vanderbilt syndicate to obtain the grant from Nicaragua. They reiterated the canal policy now traditional with the United States Government.

Mr. Hise at once bestirred himself before he should be superseded by the advent of Squier, and, on June 21, 1849, negotiated a treaty with Nicaragua granting to the United States or a company of its citizens the right across the isthmus, not only for a canal, but for a railroad or turnpike.

The Taylor Administration refused to send this treaty to the Senate for ratification, although it held it in suspense for a time as a means of influencing the action of Great Britain in negotiations then in progress to settle the British claims to the Mosquito protectorate.

As the claims of Great Britain involved the territory around the mouth of the San Juan River, the proposed eastern terminus of the canal, and it was thought too serious an undertaking to dislodge her, it was resolved to secure her coöperation in guaranteeing the neutrality of the canal. This was accomplished on April 19, 1850, in a treaty made between Secretary Clayton and Sir Henry L. Bulwer, special ambassador of Great Britain to the United States.

The main provisions of the treaty were:

(1) Neither power was to exercise exclusive control over the canal; (2) or to "occupy or fortify, or colonize or assume or exercise any dominion over Nicaragua or any other part of

Central America"; (3) both parties guaranteed the protection and neutrality of the canal; (4) agreed to invite other friendly powers to join in the foregoing stipulations, and (5) to form treaties with the Central American countries in order to secure the construction of the canal; (6) British and American vessels were to be exempt from detention, blockade, or capture while traversing the canal; and (7) the two powers were to extend their protection to any other system of transportation, such as a railroad, across the isthmus.

The treaty was ratified by the contracting governments on July 4, 1850. Shortly after the execution of the treaty renewed complaints were made from Central America of British occupation of territory there.

A debate upon the treaty occurred in the Senate during a special session in March, 1853.

THE CLAYTON-BULWER TREATY

SENATE, MARCH 9-21, 1853

In the preceding session Senator Stephen A. Douglas (Illinois) had attacked the Clayton-Bulwer treaty on the ground that it abandoned the Monroe Doctrine.

On the first day of the special session (March 9) Senator Clayton made an extended speech in which he repudiated and endeavored to refute the charge as well as to vindicate the treaty.

He denied that the treaty violated the Monroe Doctrine, and pointed to the unanimous affirmation of its principles by President Jackson and the Senate in 1823, and the unanimous affirmation of them by President Polk and the Democratic Senators in 1847. "The Senator from Illinois, it would seem, is not of that school," commented Senator Clayton.

Senator Douglas having criticized him for his action on the Hise treaty, Senator Clayton then proceeded to justify himself in the matter.

Mr. Hise's treaty proposed, first, that the Government of the United States should undertake and construct the canal in Nicaragua; and, secondly, if it should decide not to do so, then

either the President or Congress should issue a charter or act of incorporation for the purpose. As to the first proposition, I have never yet met with any man of any party who supposed that our Government had power to make improvements outside the United States and their territories. Mr. Polk denied that it had power to make internal improvements, and Mr. Buchanan, his Secretary of State, was of the same strict-construction school. As to the second proposition, to confer upon the President or Congress the power to issue a charter or act of incorporation for the purpose of cutting a canal in Nicaragua, I need not ask the question, Who believes that either of them could exercise such a power under the Constitution? No foreign government could confer a greater power upon our President or our Congress than the Constitution delegates to them. The power of Congress to create a corporation within the limits of the United States was denied by Mr. Polk. But if there be any man (except the Senator from Illinois, Mr. Douglas) who thinks that either the President (who has no legislative power) or Congress, or both combined, have power to issue a charter incorporating a company to make a canal in Nicaragua, or a railroad in China, I have not yet seen him.

By the twelfth article of Mr. Hise's treaty it is provided, in consideration of the monopoly granted and the other grants in the preceding articles, that—

"The United States of America doth solemnly agree and undertake to protect and defend the State of Nicaragua in the possession and exercise of the sovereignty and dominion of all the country that may be rightfully under the jurisdiction of the said state, and when the circumstances and condition of the country may require it the United States shall employ their naval and military force to preserve the peace and maintain the neutrality of the said territories, and to hold and keep the same under the dominion and sovereignty of the Government of Nicaragua."

Does any man here defend such a treaty as that? This is one of the first instances since the ancient entangling alliance made with France by the treaties of 1778, in which any minister of this Government has attempted to disobey the solemn injunction of the Father of his Country to avoid all such political connections. For this is a political, not a mere commercial, alliance. It is difficult to perceive how it could have failed to plunge us into a war. Mr. Polk, in his message to the Senate, when transmitting the treaty which provides for the protection of the Panama railroad, that the Province of Panama shall be neutral territory, justifies that treaty on the ground that it is a treaty for commercial purposes merely, and not a treaty for a political alliance,

which he admits would have been fatal to its confirmation. On the very principles laid down by Mr. Polk in that message it is impossible that he could have ever consented to the ratification of Mr. Hise's treaty.

There are other articles in this treaty sufficiently absurd to condemn it. But if I have not already shown enough for that purpose I feel that it would be useless to refer to any others. Is there a man in this Senate who will dare to stand up and say he would have voted for it? Not one! And if the whole Senate had voted for such a treaty it could never have been ratified either by President Polk or by President Taylor.

It was under these circumstances that the Senator from Illinois [Mr. Douglas] made a charge against me on the floor of the Senate, on the 14th day of February last, that I had suppressed Mr. Hise's treaty. What right had he to say that I had suppressed the treaty? As a Senator he ought to have known, and if he attended to his duty, and read the correspondence transmitted to the Senate by the President, he did know that it was utterly untrue; for General Taylor himself informed the Senate that he had declined sending it to the Senate for ratification, for reasons which I have already given. If the Senator meant to say that I had concealed the treaty then his statement was equally destitute of truth, for he knew well that I had sent that treaty to Congress on the 18th day of July, 1850, and that it was among the published documents when he made the statement.

Mr. Douglas here said he meant only that the treaty had not been sent to the Senate for ratification. Senator Clayton continued:

The Senator has been on many occasions engaged in making charges against the Administration of President Taylor that this treaty was not submitted to the Senate for ratification. I have read publications of some of his stump speeches in regard to this treaty—has he any complaint to make now? Dare he now say that he would, under any possible circumstances, have voted for that treaty? Would he desire me to send such a treaty as that to the Senate for ratification? Would he ratify it? He cannot say that he would; and, if he cannot, with what show of propriety did he arraign me or President Taylor for declining to offer it to the Senate for ratification?

The Senator is shocked that we cannot annex the Central American Republics to the United States; yet he himself professes, almost in the same breath, to be opposed to the annexa-

tion. He amuses us with the assertion that the treaty of the 19th of April, 1850, is a negation of the Monroe Doctrine in every particular; yet in the next breath he asserts that the treaty and the Monroe Doctrine are so identical that a violation of one is a violation of both. And he urges us to make an issue with the British Government about the colony of the Bay Islands, which he says is a striking infraction of the treaty as well as the Monroe Doctrine, and presents a very pretty quarrel as it stands. He is a great advocate of the Monroe Doctrine, yet refuses to vote for that doctrine when asserted in a resolution presented by one of his own party.

As he declared that his reason for opposing the treaty of the 19th of April, 1850, was its "negation of the Monroe Doctrine," I propose to examine the history of that doctrine, with a view to show not only that his assertion is unfounded, but that, while the policy indicated by the treaty has been the established policy of this Government for more than twenty years, the Monroe Doctrine never has been established as a principle to regulate the action of this Government, and has been repudiated as often as an effort has been made in Congress to sustain it. In saying this I do not mean to be understood that the executive branch of the Government has not recommended it to Congress for effect or to attain a special object, nor do I mean to censure any President for doing so, but the President does not constitute the Government; and I mean to say that neither the President and Senate, by any treaty, nor Congress, by any vote or resolution, have ever sustained it.

Mr. Monroe's declaration was made in his seventh annual message to Congress, on the 2d of December, 1823.

This celebrated declaration, which is often quoted as a pledge to go to war with any European nation which shall attempt to colonize any part of this hemisphere, is not a declaration by the President to a foreign country, but a mere recommendation to Congress. Congress utterly refused to adopt the recommendation at the time, and has ever since refused to make any such declaration. Mr. Clay, who was an ardent supporter of Mr. Monroe's Administration, did, at the time, propose a resolution to the House of Representatives, which was intended to approach the declaration, but even that failed. His resolution was, "that the people of these States would not see, without serious inquietude, any forcible interposition by the allied powers of Europe, in the behalf of Spain, to reduce to their former subjection those parts of the continent of America which have proclaimed and established for themselves, respectively, independ-

ent governments, and which have been solemnly recognized by the United States." Even had this passed it was but a poor response to the recommendation. It did not adopt Mr. Monroe's language or its equivalent, and it restricted "the serious inquietude" we should feel to the case of a *forcible* interposition *by the allied powers to aid Spain!* But Mr. Clay's resolution, even when thus diluted, backed by all the influence which he and Mr. Webster exerted on the occasion, never passed the House of Representatives. The Hon. James K. Polk, during the debate on the Panama mission, tells us the fate of Mr. Clay's resolution, and of Mr. Webster's kindred Greek resolution, which was defeated by a large majority at the same session. As Mr. Polk is often cited as an advocate of the opinion that Mr. Monroe's presidential message had pledged the nation to adopt the policy which Mr. Monroe merely recommended I beg to refer to his speech on the Panama mission, in 1826, as showing that he did not consider such recommendations as he and Mr. Monroe gave to Congress as in any sense binding upon this Government, without the consent of Congress.

In the same debate on the Panama mission James Buchanan opposed the mission on the same grounds.

Mr. Buchanan's complaint against Mr. Clay, which, he thought, went to show the weakness of Mr. Clay's head, was this: that he had instructed Mr. Poinsett to bring to the notice of the Mexican Government the message of Mr. Monroe, and that Mr. Poinsett had said to the Mexican Government that "the United States had pledged themselves not to permit any other power to interfere with the independence or form of government of the Spanish-American Republics." I know it is claimed that in Mr. Buchanan's instructions to Mr. Hise he asserted the Monroe Doctrine; but on a careful examination of his language it will be found that he did not instruct Mr. Hise to make any such declaration, and only said that European interference with the domestic concerns of the American republics would "jeopard their independence and ruin their interests," and in the very next sentence he assigns a reason why the United States decline to resist such interference. In the same instructions he tells Mr. Hise "it is our intention to maintain our established policy of non-intervention in concerns of foreign nations."

The most impassioned eloquence, urging again and again that Nicaragua was about to fall a victim to British aggression, and entreating the United States to interfere on the very principles advanced by Mr. Polk himself, in his message at the first session of the Twenty-ninth Congress, and reiterated in his Yuca-

tan message, was of no avail. There seemed to be no chord in the bosom of that Administration which vibrated to the touch of those who kneeled and begged for succor in this dark hour of their distress. The Monroe Doctrine was laid aside; the President's own recommendation to Congress had, we must suppose, also, like Mr. Monroe's, "*performed its office.*" The British, in their ships of war *Alarm* and *Vixen*, entered the San Juan river without *even a remonstrance* from our Government, on the 8th of January, 1848, and while Mr. Polk and Mr. Buchanan slumbered over all these forewarnings of the fate of Nicaragua, took the town of San Juan, and changed its name to "Greytown," stormed the fort of Serapacui, and, in the island of Cuba, in the midst of the magnificent lake of Nicaragua, dictated their own terms as conquerors to the unhappy people, who, relying upon our supposed promises of help contained in the President's previous public avowal of the Monroe Doctrine, had dared to wage war and expend their blood in defence of their native land. The documents before Congress exhibit on the part of our Government the most cold and contemptuous silence—a perfect indifference to all the appeals of our weak sister republic, and her letters were never answered until they were answered by Zachary Taylor, who *has been so much abused for not carrying out the Monroe Doctrine!* His letter to the President and mine to the Secretary of the State of Nicaragua are among the published documents before you; and how fully they refute the calumnies which, for three years, have filled a portion of the party press of this country and disgraced its character for veracity all men are now free to judge.

It is very remarkable that the Democracy, at the very origin of their present party, totally repudiated the whole Monroe Doctrine and came into power on the principle of Washington's doctrine of non-intervention. It has been often said, and there is much reason to believe, that Mr. Adams, who was Secretary of State at the time Mr. Monroe proposed the doctrine, was entitled to the paternity of it. Mr. Calhoun once intimated so much in the Senate. It was the principal topic of discussion in Congress during the administration of Mr. Adams, and it was generally believed at the time that the reassertion of the Monroe principle in Mr. Poinsett's instructions, and in the course adopted by the advocates of Mr. Adams in favor of the Panama mission, drove Mr. Adams from power and secured the election of President Jackson, whose party, shortly after his election, assumed the name of the Democratic party. Among his most ardent advocates was Mr. Van Buren, the great Coryphæus of that party,

who, in a speech in the Senate, opposed the Panama mission and the Monroe Doctrine.

This speech was pronounced the ablest delivered in Congress since Mr. Pinkney's reply to Mr. King.¹ I could fill volumes from the speeches of Mr. Hayne, Mr. Rives, Mr. McLane, Mr. Calhoun, and all the ancient leaders of the Democratic party against this Monroe Doctrine. The Senator from Michigan [Lewis Cass] was perfectly correct when he said that this declaration of Mr. Monroe had lain, ever since its origin, a dead letter on our records. His recent attempt to revive it by his resolution at the last session [see Vol. II, page 286], closes the history of the Monroe doctrines. That resolution met with such violent opposition from his own party as to give us the assurance that no President who should undertake to act upon it could be sustained. With all similar resolutions, recommendations, and declarations, it was consigned to "that same ancient vault where all the kindred of the Capulets lie."

With this history before us, I would leave the Senator from Illinois the full benefit of his objection to the treaty of the 19th April, 1850, if I could. He said, and repeatedly said, that every article of that treaty is predicated upon a negation and repudiation of the Monroe declaration in relation to European colonization on this continent. The Senator does not understand the distinction between an alliance for political purposes and a compact to carry out a commercial enterprise. Every word of objection which he made to this treaty was equally applicable to Mr. Polk's treaty with New Granada to protect the province of Panama, and to Mr. Buchanan's proposition to Mr. Crampton to invite not only Great Britain, but France and other commercial powers, to enter into the same treaty stipulations which we had contracted in regard to a canal or railroad at Panama, and his opposition is founded on principles which would overthrow every commercial treaty we ever made.

But, notwithstanding his assertion that the treaty is a negation of the Monroe Doctrine in every particular, I must tell him that it presents the only instance in which an European power, which had attempted to colonize a portion of this hemisphere, and to extend the European system here, has been induced by the action of this Government to abandon the attempt. Impartial history will distinguish between such action and that mere noisy declamation to frighten the vulture from his victim, which has generally carried more consternation into the ranks of friends at home than of foes abroad.

¹ See Volume IV, chapter ii.

Senator Douglas replied to Senator Clayton.

The Senator has assigned various reasons for withholding the Hise treaty from the consideration of the Senate. The first is that it was concluded by Mr. Hise without the authority of this Government. That may be true, but it is the first time I have ever heard it urged as a valid reason for withholding from the consideration of the Senate a treaty the objects and provisions of which were desirable.

The Hise treaty furnished conclusive evidence that the Government of Nicaragua was willing and anxious to confer upon the United States the exclusive and perpetual privilege of controlling the canal between the Atlantic and Pacific Oceans, instead of a partnership between us and the European powers. The Senator from Delaware (then Secretary of State) had the opportunity of securing to his own country that inestimable privilege, either by submitting the Hise treaty to the Senate, with the recommendation that it be so modified as to obviate all the objections which he deemed to exist to some of its provisions, or by making a new treaty which should embrace the principle of an exclusive and perpetual privilege without any of the obnoxious provisions. He did not do either. He suppressed the treaty—refused to accept of an exclusive privilege to his own country—and caused a new treaty to be made, which should lay the foundation of a partnership between the United States and Great Britain and the other European powers.

The Senator's object seems to be to glorify himself and General Taylor, at the expense of Mr. Buchanan and Mr. Polk, by accusing the latter of having tamely submitted to British aggressions of great enormity, which the former promptly rebuked by expelling the British from Central America. Let me ask him the question—did the Clayton and Bulwer treaty expel the British from Central America? Has England abandoned her protectorate? What power has she surrendered? What functionary has she recalled? What portion of the country—what inch of territory has she given up? I can show the Senator from Delaware where she has extended her possessions since the date of that treaty, and in contempt of its stipulations, notably in the case of the Bay Island colony.

Are we going to submit tamely to this? If we acquiesce we submit to a double wrong—a contravention of our avowed policy in regard to European colonization on this continent; and, secondly, a palpable and open violation of the terms and stipulations of the Clayton and Bulwer treaty. If we tamely submit to this twofold wrong, the less we say henceforth in regard to

European colonization on the American continent the better for our own credit.

Here is a case where we must act if we ever intend to act. The act was done in contempt of our avowed policy. She cannot justify it before the civilized world and, therefore, dare not fight upon such an issue. England will fight us when her honor compels her to do it, and she will fight us for no other cause. And, sir, when England backs out of one colony upon our remonstrance, it will be a long time before she will establish another upon this continent without consulting us. And, sir, when England shall have refrained from interfering in the affairs of the American continent without consulting the wishes of this Government, what other power on earth will be willing to stand forward and do that which England concedes it prudent not to attempt?

One word upon the point made by the Senator that the Hise treaty was unconstitutional. If you have no right to accept an exclusive privilege to us under the Constitution, what right had you to take a partnership privilege in company with Great Britain? I choose to put the Senator upon the defensive, and let him demonstrate his right to do this thing jointly with England, and then I will draw from his argument my right to do it for the benefit of America alone. He, in his treaty, exercised the power. I have not. And he, having exercised the power, having pledged the faith of the nation to do an act, I have a right to call upon him to show the authority, under the Constitution of the United States, to make a guaranty jointly with England for the benefit of English subjects as well as American citizens.

Could we not open the canal to the commerce of the world as well by our volition as England could in conjunction with us? Would it not be as creditable to us as a nation to have acquired it ourselves, and then opened it freely, as to have gone into a partnership by which we should have no control in prescribing the terms upon which it should be opened? And, besides, if the grant had been made to us, and we had accepted it and then thrown it open to the commerce of all nations on our own terms and conditions, we held in our hands a right which would have been ample security for every nation under heaven to keep the peace with the United States. The moment England abused the privilege by seizing any more islands, by establishing any more colonies, by invading any more rights, or by violating any more treaties, we would use our privilege, shut up the canal, and exclude her commerce from the Pacific. Sir, when

the time has arrived when we will not be told any more that Europe will not consent to this, and England will not consent to that. I heard that argument till I got tired of it when we were discussing the resolutions for the annexation of Texas. I heard it again on the Oregon question, and I heard it on the California question. It has been said on every occasion whenever we have had an issue about foreign relations, that England would not consent; yet she has acquiesced in whatever we have had the courage and the justice to do. And why? Because we kept ourselves in the right. England was so situated with her possessions on this continent that she dare not fight in an unjust cause. We would have been in the right to have accepted the privilege of making this canal, and England would never have dared to provoke a controversy with us. I think the time has come when America should perform her duty according to our own judgment, and our own sense of justice, without regard to what European powers might say with respect to it. I think this nation is about of age.

You may make as many treaties as you please to fetter the limits of this giant Republic, and she will burst them all from her, and her course will be onward to a limit which I will not venture to prescribe. What is the use of your guaranty that you will never erect any fortifications in Central America; never annex, occupy, or colonize any portion of that country? How do you know that you can avoid doing it? If you make the canal, I ask you if American citizens will not settle along its line; whether they will not build up towns at each terminus; whether they will not spread over that country and convert it into an American State; whether American principles and American institutions will not be firmly planted there? And I ask you how many years you think will pass away before you will find the same necessity to extend your laws over your own kindred that you found in the case of Texas? How long will it be before that day arrives? It may not occur in the Senator's day, nor mine. But so certain as this Republic exists, so certain as we remain a united people, so certain as the laws of progress which have raised us from a mere handful to a mighty nation shall continue to govern our action, just so certain are these events to be worked out, and you will be compelled to extend your protection in that direction.

Sir, when you look at the whole history of that question you will see that England, with her farseeing, sagacious policy, has attempted to circumscribe and restrict and restrain the free action of this Government. When was it that Great Britain

you surrendered that exclusive right, you surrendered a great element of power which, in our hands, would have been wielded in the cause of justice for the benefit of mankind.

I was not for such a restrictive policy as would exclude British vessels from going through the canal, or the vessels of any other nation which should respect our rights. I would let them all pass freely, as long as they did not abuse the privilege; close it against them when they did. I insist that the American people occupy a position on this continent which rendered it natural and proper that we should exercise that power. I had no fear of a war with England. I have none now. War should be avoided as long as possible. But, sir, you need have no apprehension of a war with her, for the reason that, if we keep in the right, she dare not fight us, and she will not, especially for anything relating to American affairs. She knows she has given a bond to keep the peace, with a mortgage on all her real estate in America as collateral security, and she knows she forfeits her title to the whole, without hope of redemption, if she commits a breach of the bond. She will not fight unless compelled. Under the Hise treaty we could have fortified that canal at each end and, in time of war, could have closed it against our enemies and opened it at our own pleasure.

Then, sir, what was the objection to the acceptance of that exclusive privilege? I do not see it, sir. I know what were the private arguments urged in times which have gone by, and which, I trust, never will return; and that is, that England and other European powers never would consent that the United States should have an exclusive right to the canal. Well, sir, I do not know that they would have consented; but of one thing I am certain: I would never have asked their consent. When Nicaragua desired to confer the privilege, and when we were willing to accept it, it was purely an American question with which England had no right to interfere. Are we under any more obligation to consult European powers about an American question than the allied powers were, in their congress, to consult us when establishing the equilibrium of Europe by the agency of the Holy Alliance? It was a European question about which it was presumed America had nothing to say. This question of a canal in Nicaragua, when negotiations were pending to give it to us, was so much an American question that the English Government was not entitled to be consulted. England not consent! She will consent to allow you to do that just so long as you consent to allow her to hold Canada, the Bermudas, Jamaica, and her other American possessions. I hope

seized the possession of the terminus of this canal? Just six days after the signing of the treaty which secured to us California! The moment that England saw that, by the pending negotiations with Mexico, California was to be acquired, she collected her fleets and made preparations for the seizure of the port of San Juan in order that she might be gate-keeper on the public highway to our own possessions on the Pacific. Hence I do not sympathize with that feeling which the Senator expressed yesterday that it was a pity to have a difference with a nation so *friendly to us as England*. Sir, I do not see the evidence of her friendship. It is not in the nature of things that she can be our friend. It is impossible she can love us. I do not blame her for not loving us. Sir, we have wounded her vanity and humbled her pride. She can never forgive us. But for us, she would be the first power on the face of the earth. She is jealous of us, and jealousy forbids the idea of friendship. England does not love us; she cannot love us, and we do not love her either. We have some things in the past to remember that are not agreeable. She has more in the present to humiliate her that she cannot forgive.

I do not wish to administer to the feeling of jealousy and rivalry that exists between us and England. I wish to soften and smooth it down as much as possible; but why close our eyes to the fact that friendship is impossible while jealousy exists? Hence England seizes every island in the sea and rock upon our coast where she can plant a gun to intimidate us or to annoy our commerce. Why is she at the expense to keep her position on that little barren island Bermuda, and the miserable Bahamas, and all the other islands along our coast, except as sentinels upon our actions? Why, then, talk about the friendly bearing of England toward us when she is extending that policy every day? New treaties of friendship, seizure of islands, and erection of new colonies in violation of her treaties seem to be the order of the day. In view of this state of things, I am in favor of meeting England as we meet a rival; meet her boldly, treat her justly and fairly, but make no humiliating concession even for the sake of peace. She has as much reason to make concessions to us as we have to make them to her. I would not willingly disturb the peace of the world; but, sir, the Bay Island colony must be discontinued. It violates the treaty.

On March 14 Senator Clayton spoke in rebuttal. Senator Douglas, he said, had recklessly asserted that Great

Britain had not surrendered an inch of the territory she had seized in Central America. If the Senator had read the official papers he would have seen that the British Government had expressly stated that it would not exert force to sustain its protectorate of the Mosquito king.

If they do attempt it that must inevitably involve us in a controversy which never can terminate honorably for us without their utter abandonment of any such claim. I do not pretend that either they or we cannot interfere with a Central American state which *robs* or *plunders* subjects of their country, or citizens of the other. Were any of these states to *imprison* our citizens, or *rob* them of their property, it is our duty to protect them, and, after all efforts of honorable diplomacy are exhausted, to *compel* a full indemnity for the *wrong*. Neither the law of reprisals for torts, nor the right of any government to interfere for the protection of its citizens or subjects against oppression and outrage, has been abolished by the treaty of 1850. We should be as prompt to demand reparation for wrongs done to an American citizen by Honduras as by any other state or country, without in any way violating the treaty. Let us wait patiently and learn how the facts really are before we proclaim the perfidy of any nation. But, without blustering, let us be firm in executing the observance of the whole treaty when our intervention is really necessary to enforce it.

The honorable Senator from Illinois [Mr. Douglas] addressed a speech to his partisans in the galleries on all the topics used to excite and inflame the populace. When defeated on one point he shifted to another. From glorifying Hise's treaty (as he has done for two years) he shrunk back, when its folly was exposed, to a mere assertion that he preferred it only because it gave us the *exclusive* right of way. What has become of his Monroe Doctrine, which was the chief objection he made to the treaty? He has abandoned it—fled from it, and has not a word to say in its defence! What answer has he made to the glaring evidence of the gross unconstitutionality of the Hise treaty creating a corporation to dig a canal more than a thousand miles from the utmost limits of the United States? Not a word! He is equally silent now on every other topic connected with the treaty, upon which he harangued the populace for the last two years, except the single matter of the exclusive privilege. On that point he is yet sure he is right, and it is my duty to expose him.

to navigate it; that forts should be built at both ends to protect it; and, of course, that we should protect it by every other means necessary. When the Government shall have made it, and when the Government shall have established the forts, the canal, he says, will be open to everybody on the same terms; and thus he seeks the exclusive grant of a right of way! What does he want with it? Why does he prefer it to the plan adopted of opening the canal to all nations on the same terms? The Senator says he would hold it as a rod—yes, a rod, to compel other nations to keep the peace! He would have no more settling of islands on the coast of Central America! If any government attempted it he would shut his canal to them! He would also compel all foreign nations to treat us with all respect and regard by means of the tremendous rod which he would hold in his hands. Let us look a little into the justice of this thing as regards our own country.

It has been supposed that the construction of this great work will cost fifty or a hundred millions of dollars. I suppose we could not build a proper fortification at each end under less than a million of dollars for each fort. We would be compelled to maintain a garrison there; and, in the event of a war, to maintain a large navy, such a one as could resist the naval powers of the earth. If we were to go to war with France, or England, or any other great naval power, that, of course, would be one of the first points of attack. How convenient would it be for us to defend it at a distance of two thousand miles, and send troops to the different forts, and ships to protect our vessels that pass through the canal! We build it, and everybody is to have the benefit of the canal on the same terms, in time of peace! In war we alone are to defend it! The interest on a hundred millions would be six millions a year. The expenses of protecting and taking care of the canal and keeping it in good order would probably, when added to the interest, make an annual outlay from the treasury of the United States in that distant country of not less than ten millions of dollars. Now, why should we make such an expenditure? Because we want a rod—a rod! Sir, I think it would prove to be a rod to *inflict injuries upon ourselves*. We want nothing but the right of way there. We proposed that no nation should go through that canal unless she agreed to protect it. In case they agreed to protect it we should want no forts, no garrisons, and no naval force to guard what none could attack. But, on the other hand, if we were to adopt the plan of the Senator we should have to keep a standing army in that country to protect it in the event of a war between us and

The Senator from Illinois did not utter a word against the treaty when it passed. Three weeks afterward he had his name recorded against it. He was a candidate for the Presidency we all know. By taking ground against the treaty he placed himself in direct antagonism with all the other candidates for the Presidency of both parties. By making the treaty unpopular he killed off Cass, and Clay, and Webster, and Houston, and both the distinguished Senators from Virginia, and all the others who had ever been named for the Presidency. He fired into the whole flock of his rivals—shot dead, as he thought, all who could stand in his way. How persevering he has been in attacking the treaty since we all know. We know how many stump speeches he has made in opposition to it. It has been his theme by day and by night; his grand point which entitles him to preference over all others is just here. *He is for annulling the treaty, and all the rest for it. He must kill the treaty, or it will kill him.*

The Senator from Illinois complained that the treaty was a European partnership. This word "partnership" composed a large part of his address. He seemed to think that if he could only get the idea fixed in the American mind that we had gone into *partnership* with England that would make the treaty odious. So he exerts himself to rouse the ancient prejudice against England. He says she does not love us and we do not love her. Will he tell us what foreign nation he does love? An American statesman, when speaking or acting in a public capacity, has no right to love any country but his own. She furnishes an object large enough for all his affections. The great Father of his Country, in his farewell address, warns us of the folly and danger of either loving or hating any foreign nation. As to Englishmen, when we declared independence, we announced that we held them as we hold men of all other nations, "enemies in war—in peace friends." The policy pursued here by the Senator has shown him to be rather a lover than a hater of England and her people. There is just as much propriety in saying that all the men who travel on the highway are partners as that the contracting parties to this convention are such. He would view every commercial treaty with England as a partnership and therefore objectionable.

All the objections of the Senator dwindle down, I repeat, to a single point—that the treaty ought to have been a treaty for the exclusive right of way across the isthmus. He thinks that the Government of the United States should have obtained the grant—the right to make a canal, and an exclusive right

foreign nations. What would be thought of a man who should purchase a farm and then, after he had gone to the expense of putting it in order, invite everybody to come and till it, but should direct them to take care that they should pay no part of the expense of keeping up the repairs, nor any part of the taxes upon the land? I do not know that this or any other illustration can make his proposition seem more preposterous than it does on its own mere statement.

The Senator from Illinois said "that treaties could not fetter or confine the limbs of this giant Republic." I do not know precisely the extent to which he meant to be understood; but the language and the manner in which the Senator applied it seemed to me to go to this extent: that we had a country exempt from the obligations of treaties, and that our limbs cannot be circumscribed by treaties. We were to disregard obligations of that description, being, like a "young giant," rising in power beyond anything that had been known in the history of the world before. The Senator made the same remark in reference to the treaty with Mexico. There is a clause in the treaty of Guadalupe Hidalgo to which the Senator made great objection at the time of its ratification, in effect, that, without the consent of the governments of both countries, the line established by that treaty as the boundary between them should be the *ultima thule*—the utmost limit of our territory. Yes, sir, we plighted our faith and honor in that treaty, confirmed as it was by more than two-thirds of the American Senate, that beyond that limit we would *never* go. Yet the Senator from Illinois says that the day is coming when we shall be compelled to violate the treaty—that treaties cannot fetter our limbs or restrict our limits. Sir, I regretted to hear it, because of the influence of that Senator in his party, as one of their standing candidates for the Presidency. I should have regretted to have heard it from any Senator. We form the body that is to ratify all the treaties of the United States. We are the constitutional advisers of the President. We are a part of the treaty-making power.

SENATOR DOUGLAS.—What I said was that the steady, regular growth and expansion of this country would, in all probability, go ahead in the future as it has done in the past; that you might make as many treaties as you please, and still they would not check our growth, and, because they could not, it was useless to make treaties which must of necessity be violated; hence I argued against the making of treaties pledging our faith not to do that which inevitably would be done in the future. It was an argument in favor of the fidelity and observance of

treaty stipulations, and that we *should* not, therefore, be so profuse in our pledges in cases where we could not fulfill them.

SENATOR CLAYTON.—An argument in favor of fidelity and observance of treaty stipulations, indeed! The idea is that we are incapable, from the nature of our institutions or our character as a people, of maintaining and observing treaties.

SENATOR DOUGLAS.—No, sir.

SENATOR CLAYTON (laughing).—We must grow, says the Senator. Our "manifest destiny," he means, is to extend our limits.

It was but the other day he told me we must annul the Central American treaty.

We cover a contiguous territory greater, perhaps, than ever was enjoyed by any civilized nation on earth. And yet we are told that we are not capable of binding ourselves even by treaty stipulations to observe our plighted faith and fulfill our solemn engagement of honor. I remonstrate against the declaration of such a principle, or rather of such a want of all principle. It is nothing more nor less than this: let there be as many explanations on the part of the Senator from Illinois as he may choose to make—that we are incapable of controlling our impulses and passions when our interests may lead us to violate our engagements. "Treaties cannot fetter us," says he. Sir, the plighted faith of every man of honor binds him at all times, no matter what his interest may be, and the plighted faith of nations equally binds them; and the last place from which a contrary principle should be promulgated is the Senate of the United States. Here, I repeat, we sit as the constitutional advisers of the President of the United States; and, if foreign nations come to understand that the position is taken by members holding a prominent party position here that treaties cannot be any restraint upon us, what foreign nation will ever make another treaty with us? If there be a country on earth that owes more than any other to treaties it is ours. We owe our national existence to the old French treaties of 1778. Sir, Washington, in the darkest period of the Revolution, was at Valley Forge, wintering with his suffering soldiers, when the intelligence reached them that France had entered into an alliance with us, and had guaranteed our independence. The glorious news ran through all the ranks of the American army, and the great "Father of his Country" stood up and waved his hat and shouted for joy in concert with his troops! Our destiny from that moment became fixed. Every American saw that we were free, whatever doubt he might have entertained about it before. We owe, I repeat, our national

independence to treaties. And now, when we are becoming strong shall we forget it? Shall not an American statesman adhere to treaties with as much fidelity as an Englishman, or a Frenchman, or one of any other nation? Shall he not rejoice that his country does stand by her honor? I trust that no idea of our growing importance, or necessity of our enlargement will ever sink into the heart of any other American Senator to induce him to abandon that principle without which our country would become a byword and a hissing among the nations. The honor of our country is yet dearer to the true American than all the land that Mexico and Central America contain.

The Senator, after "swallowing Mexico," must take in all the other intermediate countries; and, as Great Britain owns many of the islands and dependencies to be devoured, he must include the British lion—a matter not quite so easy of digestion. What an intimation is it for us to make to the world that we may some day annex these weak little sister republics, thousands of miles away from us, with a population so different from ours, especially in laws, institutions, and usages! I would much rather other nations should know the fact that San Salvador, one of these very Central American states, once applied for admission into our Union, and that our Government not only declined to receive them but treated the application as one not worthy of a moment's serious regard.

I heard with pleasure and admiration that passage in the inaugural address of President Pierce which declared that his administration should leave no blot upon his country's record, and that no act within his constitutional control would be tolerated which could not challenge a ready justification before the tribunal of the civilized world. How great the difference between that and the sentiments of the Senator from Illinois! Let the President adhere to these principles and he will thereby disarm opposition; he will make of those who have heretofore been strong political opponents some of the warmest friends he has in the world. I put this declaration in contrast with all these gigantic ideas [laughter] of breaking treaties and going beyond the limits of the country in defiance of them. But if the President should, in opposition to all our hopes and belief, be induced to disregard the faith of treaties, he will hardly progress through half the period of his constitutional term before he will find the great heart of the American people, which is honest to the core, opposed to him, and the most sincere of his present friends will vindicate the justice of the sentence against him, while they sorrow for his fall.

The assumption of a protectorate over the Mosquito Indians was continued by Great Britain, who construed the Clayton-Bulwer treaty as permitting this form of territorial occupation. The United States refused to accept this construction. Finally, to settle the vexed questions, a new treaty, the Dallas-Clarendon, was negotiated in October, 1856, and was ratified soon afterwards by the Senate with the addition of certain amendments which Great Britain refused to accept.

In 1860 Great Britain concluded treaties with Honduras and Nicaragua which provided for the cession of the Bay Islands to the former, and the relinquishment of the British protectorate over the Mosquito Islands.

In 1881 the treaty became the subject of controversy between James G. Blaine, Secretary of State under President Garfield, and Lord Granville; Mr. Blaine contending that any isthmian canal should be under the political control of the United States, and declaring that this country would view with grave concern any interference by a European nation in this or any other American territorial affair. He asked that the treaty be made to conform to the conditions of the time, which had materially changed since 1850.

Frederick T. Frelinghuysen, who succeeded to Blaine's position soon after the accession of President Arthur, took a still stronger position, contending that the treaty was obsolete. Lord Granville asserted that the treaty, never having been abrogated, was still in force.

CHAPTER VIII

THE NICARAGUA CANAL

[HAY-PAUNCEFOTE TREATY]

Panama and Nicaragua Canal Concessions: The French Panama Canal Company, the Nicaragua Canal Company—George F. Edmunds [Vt.] Introduces in the Senate a Joint Resolution Declaring the Monroe Doctrine Applicable Against Connection of any European Government with Isthmian Canal Projects—Debate: John Sherman [O.], Wilkinson Call [Fla.], John T. Morgan [Ala.], John H. Reagan [Tex.]; Resolution Is Passed; House Commits It—United States Commissioners to Investigate Canal Routes—The First Hay-Pauncefote Treaty—William P. Hepburn [La.] Introduces in the House Bill to Complete Nicaragua Canal—Debate: in Favor, Mr. Hepburn, Champ Clark [Mo.], William L. Terry [Ark.], Jonathan P. Dolliver [Ia.], D. S. Alexander [N. Y.], John B. Corliss [Mich.], James R. Mann [Ill.], Oscar W. Underwood [Ala.], P. D. McCulloch [Ark.], John S. Williams [Miss.], Benjamin F. Marsh [Ill.]; Opposed, Theodore E. Burton [O.], Robert R. Hitt [Ill.], Joseph G. Cannon [Ill.]; Bill Is Passed; It Is Postponed by the Senate—The Second Hay-Pauncefote Treaty.

THE route of the Nicaragua canal was surveyed in 1850 for the Vanderbilt syndicate by Colonel Orville Childs. The Vanderbilt concession lapsed in 1856, owing to non-fulfillment of conditions. The unsettled condition of domestic affairs preceding and during the Civil War diverted attention from the canal project. It was taken up again in 1867, and a treaty was concluded in June between Nicaragua and the United States, by which the right of free transit over any canal to be constructed through the former country was assured to the citizens of the latter.

In March, 1872, President Grant, in compliance with a resolution of the Senate, appointed a commission of three military and naval engineers to investigate the route of an isthmian canal. After considering the

Panama and Tehuantepec routes also, the commission, on February 7, 1876, reported unanimously in favor of the Nicaragua route from Greytown on the Atlantic coast by way of the San Juan River and Lake Nicaragua to Brito on the Pacific coast.

In May, 1878, Lieutenant Lucien N. B. Wyse and others obtained a concession from the Government of Colombia, giving them the exclusive privilege of constructing and operating a ship canal across the State of Panama.

In May, 1879, an international congress of 135 delegates, mostly engineers, was held at Paris, under call of Ferdinand de Lesseps, the distinguished constructor of the Suez Canal, to consider the best route for the American isthmian canal. Eleven delegates were from the United States, and these ably presented the advantages of the Nicaragua route. Nevertheless the congress approved a sea-level canal between Colon and Panama. The "Compagnie Universelle du Canal Inter-océanique de Panamá" was organized under the laws of France, with de Lesseps as president. It purchased the Wyse concession for 10,000,000 francs (\$2,000,000). De Lesseps estimated the cost of construction at \$127,000,000, and the time at eight years, both considerably less than the estimates of the engineers' congress.

After the preliminary surveys the work of construction was begun in 1881. In a short time it was seen that the difficulties were greater than had been anticipated, and that the estimates were absurdly low, and the company turned its energies largely from construction to raising additional capital.

In 1884, during President Arthur's Administration, a treaty was concluded between the United States and Nicaragua by which our Government agreed to build a canal, to be owned jointly by the two countries, and to protect the integrity of Nicaragua. The treaty was still unratified when Grover Cleveland became President, and he withdrew it from the Senate on the ground that the construction and ownership of the canal under such conditions would be "inconsistent with its dedication to universal and neutral use," and would "entail

measures for its realization beyond the scope of our national policy or present means."

In April, 1887, a syndicate of New York capitalists, under the name of the Maritime Canal Company of Nicaragua, secured from Nicaragua a grant (known as the Menocal concession) for the exclusive construction and operation of the canal. A bill was brought before the House to incorporate the company. It passed on January 4, 1889, by a vote of 102 to 75, after a spirited debate in which the opponents of the bill characterized the project as a "stock-jobbing" affair, and charged its promoters with endeavoring, by national incorporation of the company, to make foreign capitalists believe that the United States Government was guaranteeing the enterprise. Indeed, the advocates of the bill secured its adoption only by agreeing to an amendment of William S. Holman (Indiana) in which the United States Government explicitly repudiated any responsibility for the company, and to a further amendment of James E. Cobb (Alabama) in which this fact was ordered to be printed on all the bonds, stocks, contracts, and other obligations of the company.

The Senate non-concurred with the House amendments, and a conference was appointed. Their report was adopted by both chambers, and President Cleveland approved the bill on February 20.

The Nicaragua Canal Company under this charter of incorporation by Congress, with a capital of \$100,000,000, and authority to increase this amount to \$200,000,000, proceeded to the work of construction, expending within a year \$2,000,000. Subscriptions to the capital stock were not forthcoming as expected, and the work was discontinued, while the company sought aid of Congress to guarantee an issue of \$100,000,000 four per cent. construction bonds. This Congress refused to do.

EUROPEAN CONNECTION WITH THE ISTHMIAN CANAL

SENATE, DECEMBER 19, 1889-JANUARY 8, 1890

On December 19 George F. Edmunds (Vermont) introduced in the Senate a joint resolution declaring:

That the Government of the United States will look with serious concern and disapproval upon any connection of any European Government with the construction or control of any ship-canal across the Isthmus of Darien or across Central America, and must regard any such connection or control as injurious to the just rights and interests of the United States and as a menace to their welfare.

That the President be, and he is hereby, requested to communicate this expression of the views of Congress to the governments of the countries of Europe.

The resolution was referred to the Committee on Foreign Relations, which reported it back on January 4, 1889. It came forward for discussion on January 5.

John Sherman (Ohio) explained the occasion for the resolution.

Undoubtedly the Panama canal scheme is laboring under very great embarrassments. It has recently, in a measure, failed or suspended, and the authorities of France have provided for its suspension. A great many French people as well as Americans and Englishmen and people of other countries are interested in the building of the Panama canal under a local charter. The Government of France has hitherto always disclaimed any connection with the enterprise as a government, but it has been conducted by the private management of De Lesseps and others under a Central American company. However, recently, on account of the failure of De Lesseps and the necessity of large sums of money being raised, it has been proposed by a friendly power, the Government of France, that it should itself assume the construction of this canal, or undertake some control or ownership or jurisdiction over it, or exercise some power which is inconsistent with the established doctrine of the American Government.

We thought that under those circumstances it was but an act of friendly caution to express the opinion so often expressed in this country that the Government of the United States would not look with satisfaction upon the exercise of any such power.

Wilkinson Call (Florida) opposed adopting the resolution.

If there is any reason which can be vindicated upon argument and proper consideration for prohibiting any great work

of beneficence to mankind I can not see how it can be brought to bear upon this question.

The construction of a canal across the Isthmus of Panama is a work that will promote the welfare of every human being in the world. That this Government should interpose obstacles upon the plea that it may promote the extension of monarchical institutions or the systems of government that prevail in Europe does not address itself to my mind with any kind of reasonableness.

The Monroe Doctrine was predicated entirely upon the assumption that the system of European governments might be promoted by their colonization upon this hemisphere. This country is now strong enough to defy without fear of results any efforts of that kind; and it can control the matter in its diplomatic relations without preventing or obstructing the construction of this great work necessary to the commerce of the world, necessary to the cheapening of the articles of necessity, of human consumption, to every human being in this country and in every other country.

Why should not the Panama canal be built? Does it interfere with the power of this country? Does it in any way interfere with any of its public policies? Does it increase the power of the French or any other government to restrict the extension of republican institutions or the colonization of this country by people of republican sympathy and friendly to our form of government? Its influence in that respect amounts to nothing.

In my judgment for us to interpose any obstacle, to say that any European nation shall not contribute as a government to the construction of a great public work, is going back to the barbarous ages.

Sir, for one I am free to say that I shall regard with pleasure any effort on the part of the French Government or any other associated power to build this great work, which can only promote the welfare of every family and every human being, and increase the number of their comforts, and cheapen the productions which are necessary for them.

Mr. President, I hope that we shall not be bound by the prejudices and fears which originated years ago when this country was weak now when we can defy the world, that we should be restricted within narrow limits by European colonization upon the Western Hemisphere. Sir, if France should establish a monarchical government in Panama or Central America, and this country should see fit to declare that it should not be done, it would disappear in a moment. But what connection has the

construction of this great work with the establishment of monarchical systems or institutions on this hemisphere?

It is not difficult to see that it has none whatever. The question of the construction of a waterway over the Isthmus of Panama for the commerce of the world and the question of monarchy or republic, of aristocratic or democratic institutions, have no connection with each other. It is even difficult to see how any one can even make a pretence to that effect.

John T. Morgan (Alabama) opposed the second section of the resolution as unwarranted dictation to the President, cutting him off from diplomatic negotiation with France in the matter.

I am heartily in accord with the first part of the resolution and have no hesitancy in expressing the opinion, as it is expressed here, that it is the duty of the United States to intervene to prevent any foreign government from getting any such hold upon this Western Hemisphere as will give it, in consequence of its committal to a certain line of enterprise, governmental authority that it does not now possess. I very well understand, I think, that, if the Government of France should, for the purpose of relieving the necessities and distress of Mr. De Lesseps and of his coadjutors in this work, come in as a government to aid them by any assumption it may make of the responsibilities he has already incurred and under which he has failed so far—can very well understand that the Government of France in such a proceeding would necessarily exercise its governmental functions in Panama. You would have to make room for the authoritative action of two governments there before France could carry this enterprise into execution.

The Government of Colombia, with its present power and authority, its sovereignty over that country, would be forced to yield, either by treaty engagements, concession, or in some other way, to the governmental authority that France might choose to exercise in promoting this enterprise in Panama which the French Chamber would decree that government should engage in. That would necessarily, it seems to me, sooner or later bring about a conflict of authority between the governments; and I can not fail to understand that the weak power of Colombia would succumb to the greater military power of France in such an event as I have stated, and that the ultimate result would be French domination in Panama, and perhaps an extension of that domination to other states in what is now the Republic of Colombia.

American hemisphere, not to any mere effort to aid in an enterprise to develop the commerce of the world and promote the welfare of mankind.

SENATOR SHERMAN.—I am rather surprised that the Senator from Alabama should take the ground that we can not dictate the policy of the President so as to restrain him to some extent in the direction of his negotiations. We can not take from him the treaty-making power; no one proposes to do that; but Congress can define the policy of this Government upon any question within its power, clearly so; and it is rather surprising to me that the Senator from Alabama should seem to care so much for the power of the President, which is purely an executive power, sharing with us, it is true, the legislative power only to a certain extent. When Congress (which includes the President) declares a public policy, the President is bound to conform in his negotiations to that policy; otherwise he would violate the will of the people as expressed in Congress. There is not anything, therefore, in the point made by the Senator from Alabama as to the form of the resolution.

I am absolutely indifferent about it as a member of the committee, but as the committee reported it as a joint resolution I hope it will so stand, because it combines the strongest form of expression in which we can declare this public policy, that is, by a joint resolution of Congress instead of a mere concurrent resolution or a resolution of the Senate alone.

As to the matter to be declared, I am happy to say that the Senator from Alabama agrees with me entirely. I find that he introduced a resolution in 1881 which was finally reported unanimously from the Committee on Foreign Relations, of which he was then a member. I will read the first part of the report embodying the resolution:

That the subject embraced in the resolution is one of great national importance, and worthy of the most careful consideration.

This report was made by Mr. Burnside from the Committee on Foreign Relations May 16, 1881. I will say that was the time when De Lesseps was beginning his work on the Panama canal. It was the subject of discussion, and a correspondence had occurred between the then Secretary of State, now present, a member of the Senate [Mr. Evarts], and the Government of France, in which France disclaimed any purpose to exercise any power or control over the canal, and the matter proceeded upon that disclaimer. Then this resolution was introduced by the Senator from Alabama:

So I would resist in the beginning, I would resist always, the intrusion of a trans-Atlantic government into Panama for any purpose of a governmental character connected with the construction or, if you please, the operation of a canal.

JOHN H. REAGAN [Tex.].—Mr. President, the memories of a hundred years ago ought to inspire us with some respect for the French people. The knowledge that it is the only prominent republic in Europe ought to give us some sympathy with that republic. We ought not to be willing to offer an unnecessary offence to a government which has, under the greatest trials, proven itself the greatest friend of this republic.

It seems to me, sir, that the very broad general language used here would be calculated to offend the sense of right not only of France but of any other government or people, unless it is restricted so as to simply limit the declaration to political control.

I do not know how many millions have been spent in the construction of the Panama canal, but its completion will work a larger revolution upon the commerce of the world than the completion of the Suez canal did. I do not know to what extent there has been diplomatic correspondence with reference to the action of this company on that canal, or whether there has been any; but whether there has been or not is not material to the view I take now, that it would be going too far for us to make a *pronunciamiento* against any connection of that or any other government with the construction of a ship-canal—I will omit the word "control"—with the construction of a ship-canal across the isthmus. No country is so much interested in the success of that work as the United States. Here we stand on the half-way ground between western Europe with all her vast wealth and commerce and the teeming millions of Asia. It places our country in the gateway of that great commerce; and shall we uselessly, shall we unnecessarily, shall we officiously attempt to interfere with and arrest the progress of that work?

I feel very sure that the introducer of this resolution and the committee who reported it would not lend themselves to a mere stock-jobbing proposition to discredit that work in order to increase the value of the stock of an enterprise engaged in by another concern. I cannot conceive that they would be influenced by such a consideration as that. I am disposed to guard the rights of this Government upon the continent of North America as declared in what we call the Monroe Doctrine, but the Monroe Doctrine never went to the extent that this resolution goes. It looked to the exertion of political control on the

Resolved, That the interests of the people of the United States of America and the welfare and security of their Government are so involved in the subject of the construction of ship-canal and other ways for the transportation of sea-going vessels across the isthmus connecting North and South America that the Government of the United States, with the frankness which is due to all other peoples and governments, hereby asserts that it will insist that its consent is a necessary condition precedent to the execution of any such project, and also as to the rules and regulations under which other nations shall participate in the use of such canals or other ways, either in peace or in war.

It must be perceived that the resolution of the Senator from Alabama was much stronger, much more comprehensive, than the language of the resolution now before us.

I do not think that the passage of this resolution would have a bad influence. I think it would have a friendly influence. The Government of France evidently hesitates about action, and, if we only open the door a little wider they will step in, in sympathy with their citizens, who have invested their money here, and then you will have one of the great European powers planting its flag and its money and its commerce on that narrow isthmus between the Pacific and the Atlantic Oceans. That is against the policy declared by Mr. Monroe, reaffirmed by General Jackson, and in more or less distinct form by every President of the United States from that time to this, especially by Mr. Buchanan, who maintained it, and also by the Administration of President Hayes and by the declaration of General Garfield in his inaugural address. For one, I am ready, in any form in which it may be presented, whether in the form of a resolution of the Senate or of a concurrent resolution or a joint resolution, to declare that the public policy of our fathers shall be the policy of the future.

SENATOR CALL.—Have not the people of Central America the right to accept aid from a foreign government in the construction of this canal? Have they not the right to negotiate for a connection with France, as they have done, by the exercise of their sovereign power as a people? Who denies it? But this resolution says that it is a menace to the people of the United States that the people of Central America should, in their sovereign legislative national capacity, accept any connection of a foreign government in the construction of a canal across the Isthmus of Darien. That is the unquestionable language of the declaration, and what does that mean but a sovereign declaration of this people by the two Houses of Congress, unless it is a false declaration, that we will make war upon the people of any portion of this hemisphere, upon the people of Central

America especially, who shall exercise their powers in such a way as to bring about a connection of that kind with a European government? And that is the declaration that we are told is the Monroe Doctrine. I deny it.

The doctrine of our fathers never asserted a proposition of this kind. They never asserted our absolute right of domination over the people of this hemisphere, over the people of Central America, and we know that this is a false declaration and is not intended and ought not to be intended, to be observed. We know that a European government has forcibly established its domination, since the Monroe Doctrine was proclaimed, over a part of Central America, and maintains it in full and absolute and undisturbed sovereign power to-day without war on the people of the United States, without our support of that declaration, if it was intended so to apply, and it has existed for years and years in British Honduras.

But, Mr. President, it is said if the Government of France expends its money in the construction of this canal it will have a right to defend the rights which it has so acquired. Well, that may lead to war. Has not the Government of France or the Government of England the right to defend the rights of their citizens in all these countries of Central and South America when they have invested their money there, as they have done under the treaty regulations with those countries, and would not that lead to war? There is nothing in it; whether it is the money of the people or the money of the government is the same thing, and South America and Central America and Mexico are full of the money of British subjects and French citizens and German subjects to-day, and there is none of the money of the people of the United States there. These European capitalists are doing the work of civilization under treaty regulations and under the exercise of the sovereign power of the people of those several governments to-day; and the assertion that we propose forcibly and by war to forbid it is equally unwise, equally untrue, and unjustifiable in every view of public policy.

The Monroe Doctrine has nothing to do with the question of the construction of a ship-canal across the Isthmus of Darien or Central America. The interest and dignity of the Government of the United States have nothing to do with it except that they should promote it, should expend their money for it, should encourage it. There may be some question of wise public policy in saying that it shall be controlled by an international commission, by regulations established by the nations of the world, and the resolution of the Senator from Alabama wisely so declared.

John Hay, Secretary of State, entered into diplomatic correspondence with the British Foreign Office with a view to making a new treaty on the subject to remove any objection which might arise out of the Clayton-Bulwer treaty.

The treaty was signed at Washington, D. C., on February 5, 1900, by Mr. Hay and Lord Pauncefote, the British Ambassador.

The important articles of the treaty were as follows:

THE FIRST HAY-PAUNCEFOTE TREATY

"Article I. It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares; and that, subject to the provisions of the present convention, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"Art. II. The high contracting parties desiring to preserve and maintain the 'general principle' of neutralization established in Article VIII of the Clayton-Bulwer convention adopt, as the basis of such neutralization, the following rules, substantially as embodied in the convention between Great Britain and certain other powers, signed at Constantinople October 29, 1858, for the free navigation of the Suez Maritime Canal; that is to say:

"1. The canal shall be free and open, in time of war as in time of peace, to vessels of commerce and of war of all nations, on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise.

"2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

"3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary, and the transit of such vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service. Prizes shall be

But that is a different thing from this resolution and this enunciation.

This is the age of intellectual success. It is the age of benevolence and beneficence. For this country to undertake to say that we will deny the right of the people of Central America to accept of any aid, of any connection with any European government in the construction of the great works necessary for their industrial development and for the industrial development of all the peoples of the world is, I think, going back to the dark ages, and unworthy of that Government and that people which should be foremost in all that advances civilization, the arts of peace, the triumphs of mind over matter, and the subjugation of the earth and the seas and all the elements to the use and comfort and happiness of all nations and peoples of the earth.

The joint resolution was passed on January 8 by a vote of 49 to 3.

The House referred it to the Committee on Foreign Affairs. It was not acted upon during the session.

In 1895 Congress provided for three engineers, known from the chief, Colonel William Ludlow, U. S. A., as the Ludlow Commission, to investigate the feasibility and cost of completing the work done by the Nicaragua Canal Company. They reported in favor of completing the canal, and estimated the cost at \$133,472,893—about twice the estimate of the company.

Congress then provided for a new commission, known as the Walker Commission from its chief, Rear-Admiral John G. Walker, to continue the investigation. After thorough surveys, in May, 1899, it confirmed the Ludlow report.

In the meantime, however, an international commission of experts had reported favorably upon completing the Panama canal, and so Congress added to the number of the Walker Commission and ordered it to report on the best route in Central America.

President McKinley's statement in his annual message in December, 1898, that the construction of an isthmian canal was a national necessity, met with such a favorable response from Congress and the country that

in all respects subject to the same rules as vessels of war of the belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time except in case of distress, and in such case shall depart as soon as possible, but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this convention, and, in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

"7. No fortifications shall be erected commanding the canal or the waters adjacent. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

The President submitted the treaty at once to the Senate.

This was the canal situation when, on February 17, 1900, William P. Hepburn (Iowa) of the Committee on Interstate and Foreign Commerce reported to the House a bill "to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans." It authorized the appropriation of \$140,000,000 to complete the Nicaragua canal.

On May 1 Mr. Hepburn supported the bill.

THE ISTHMIAN CANAL

HOUSE OF REPRESENTATIVES, MAY 1-2, 1900

He said that the objections to the Nicaragua canal from an engineering point of view had been thoroughly

answered by the various investigating committees, particularly that under Admiral Walker.

They became satisfied that the route was entirely practicable. Now, we have the third commission—one not ready to report, and for which report we are told we must wait. But, Mr. Chairman, these difficulties thrown in the way of this enterprise by members of this House who have doubts in regard to the engineering features—and doubts are all they have upon these matters of engineering—these gentlemen are not the only opponents. We are met by another class of gentlemen who say that, while this route is practicable, while the canal is needed, while it should be an object of solicitude and fostering care and speedy completion by the Government, yet there are certain difficulties of a diplomatic nature that absolutely prevent us from doing anything.

They say truthfully that, in 1850, a treaty was negotiated between Great Britain and our country, popularly known as the Clayton-Bulwer treaty, and that one of its provisions declares that neither party alone, except in conjunction with the other, will secure this water route, or will attempt in any way to defend it without the consent of the other, and they say these provisions are a barrier, and until that is removed the Government of the United States can not, in good faith, undertake this work.

I would not be an authority upon a grave question like this, but I want to call your attention to names of a long list of statesmen who have declared that that instrument—the Clayton-Bulwer treaty—is not now of operative force against us; that it either had been violated by Great Britain in such degree as to justify us in no longer recognizing its potency or that it had become obsolete because of the object stated by that treaty having been abandoned by both parties, or that both parties had themselves abandoned it by making no effort to carry out its provisions.

In that list of statesmen that have taken one or the other of those positions all insist that at most or at the worst we had the right to declare it void and no longer binding. I name Secretary Marcy and President Pierce, Secretary Cass, and every President from Pierce down to the present incumbent, except Lincoln and Johnson. Douglas, Marcy, Frelinghuysen, Blaine, and others, all of them have united in saying that we stood to-day in the position, from the acts of other parties, that entitles us to declare we would no longer be bound by its provisions.

carry on the commerce of the United States to foreign ports. A gentleman yesterday on this floor spoke of the loss of three billions of money in a single decade that occurred to us in our commercial transactions by reason of this condition. In that estimate let me say that he lost sight entirely of the colossal sum of \$2,000,000,000 that we have expended, or, in other words, placed in the pockets of foreign shipowners, for carrying that traffic which ought to be carried in American ships. Hundreds of gentlemen have expressed themselves in my hearing as utterly opposed to the doctrine of American subsidies for ships. And yet the whole country, without opposition, will unite with me, I know, in saying that this great canal as a means of stimulating shipbuilding in the shipyards in the United States is going to be, and must necessarily be, the most important item of legislation that this country has undertaken to enact in the last thirty years. [Applause.]

CHAMP CLARK [Mo.].—Your bill contemplates that we shall protect this canal. That is my understanding. My own version is that we have the right to fortify; to do as we please with it; that it is ours. Now, the Hay-Pauncefote treaty comes along and says that Great Britain shall have the same rights in that canal as we have. So where would that provision in your bill go to?

MR. HEPBURN.—I am afraid it would be unfortunate for the provision of my bill.

MR. CLARK.—So am I.

MR. HEPBURN.—But I understand this, that if this House of Representatives, by an almost unanimous vote, declares that it ought to be the policy of the American people to own that canal, untrammelled by entangling alliances with any nation or nations, there is no official in the United States that will dare to say nay to that. [Loud applause.]

MR. CLARK.—I am not certain about that.

JOHN S. WILLIAMS [Miss.].—In other words, we can repeal the treaty beforehand.

MR. HEPBURN.—No one will want to say nay to that.

MR. CLARK.—Well, now, does not the very fact that they persist in urging that treaty in the Senate demonstrate that there is an official somewhere that does not care what the House of Representatives does?

MR. HEPBURN.—I do not know that there is a party anywhere persisting in that. I remember that some weeks ago the matter came up, that, in another body, a provision, I suppose like that which the gentleman is talking about, came up for action and

But there is another route upon which there have been vast expenditures and which I have been told strikes the minds of some of our people as more favorable to the interests of the United States than the route I have been describing. That is the Panama route. I want to say, Mr. Chairman, that, in my judgment, that route can never be made feasible for our purposes.

We are told that \$256,000,000 already has been spent or squandered in the construction of that route; and we are told that but two-fifths of it is completed, and that two-fifths is two-fifths of the linear extent, not two-fifths of the work, but of that in the alluvial lands on the sea level. The great work of cutting through the divide, that stupendous work involving a cut of two or three hundred feet in depth and 8 miles in extent, that other wonderful feat in the engineering world, the control of the Chagres River, a torrential stream draining hundreds of square miles of mountain surface, that rises sometimes 70 feet in twenty-four hours, and that other engineering feat of supplying the summit level of the Panama canal, these have never been touched. This Herculean task, involving millions that are to be expended in subduing nature and overcoming its forces, has not yet passed the stage of engineering speculation and debate.

But aside from that there is no assurance that we could ever control that canal. I challenge any of the friends of the enterprise to show how we could do it. Two hundred and fifty-six million dollars of its stock is scattered all over the face of France. It was a favorite investment twenty years ago. The poor were induced to yield up their hoardings and take stock certificates in exchange. They hold them to-day. They are the dream of future competency. This stock which they will hold on to is represented in the new company to-day in such a manner that they can not dispose of it.

Now, Mr. Chairman, if I am correct I do not see how it is possible that the Panama canal can ever subserve our purposes. I want, and I think the American people want, an American canal to be built and controlled by our own people absolutely and exclusively. [Prolonged applause.] We want a canal that will discriminate, if discrimination is to be made, in favor of our own people. [Renewed applause.] In other words, we want to control the enterprise ourselves absolutely and entirely. [Applause.]

MR. CHAIRMAN, for years past we have been spending \$200,000,000 annually in payment to the owners of foreign ships to

that the expression was of that character—so unanimous and vigorous against affirmative action that the gentleman who had it in charge was glad to withdraw it.

MR. CLARK.—Well, if they do not intend to press that treaty, why do they not withdraw it from the attention of the Senate and be through with it?

MR. HEPBURN.—You know that nobody can answer that. What particular reason there may be for withdrawing it or withholding the withdrawal nobody knows except those that have charge of the subject.

MR. WILLIAMS.—Does not the gentleman think the passage of this bill would go a very long way in persuading gentlemen in some other body to withdraw that treaty?

MR. HEPBURN.—I should certainly hope that that would be so. But, gentlemen, are we going to stop now because of the fear that something may lie in the future? That is what we have been doing for fifty years.

MR. CLARK.—I will make one suggestion, if you will permit, If you will put back that word "fortify" into this bill and pass it here almost unanimously, and then if the conferees of this House will stand up to it, we do not care about the treaty. The word "protect" is hazy, and the word "fortify" is a definite word.

MR. HEPBURN.—Why, it seems to me that the word "protect" has the broader meaning. It means authorizing to defend.

MR. CLARK.—It might not.

WILLIAM L. TERRY [Ark.].—I want to call the attention of the gentlemen to this fact, that the Clayton-Bulwer treaty specially prohibited any fortification; but, after striking out the word "defend" and the word "fortifications," you then use the very word used in that treaty, and you are proposing to use that word now.

MR. HEPBURN.—Yes, the treaty did; and yet you will remember that within ten years of that time Great Britain, in violation of that treaty, made a treaty with Nicaragua in which she reserved and secured the power, at her pleasure, to move her forces into Nicaraguan territory for the purpose of protecting and defending the canal.

JONATHAN P. DOLLIVER [Ia.].—Do I understand the gentleman to claim that the Clayton-Bulwer treaty might be abrogated by an act of Congress proceeding with the work, or does it require diplomatic negotiations?

MR. HEPBURN.—I suppose the orderly way would be to abrogate it through the State Department; but I have no doubt

about our ability and our right by legislative enactment to abrogate it, or by doing publicly and above board that which would be diametrically inconsistent with its provisions. I want to call attention to the fact that the condition of the commerce of the whole world, especially of this country, with reference to the Western coast, has so changed since that time that it would be inequitable and unjust to hold us to a treaty fifty years old, if there was no other reason than simply the fact that necessity demands its abrogation.

D. S. Alexander (New York) advocated that the Nicaragua route be definitely selected, and without delay. Speaking for the merchants and capitalists of his great commercial State, he said:

Mr. Chairman, in matters of trade and commerce delay for a nation is as disastrous as delay for an individual. If America is to be one of the great forces in the Pacific, it must construct the Nicaragua Canal exclusively and with American money. What we own we have a right to control. Great Britain controls Suez. Let the United States own Nicaragua and control it.

Theodore E. Burton (Ohio) pleaded for delay until the investigating commission of engineers should report upon the relative advantages of the two routes, Panama and Nicaragua.

Suppose private parties were committed to the construction of an interoceanic waterway, is it within the bounds of belief that they would first select one of two routes and go to the owners of the right of way and say to them: "Now, we are in your hands; impose upon us whatever terms you please?" The builder of a house or great building does not first locate his structure and afterwards secure the land upon which to place it. He first makes sure of his title to the land, obtaining the most favorable terms he can. I fully appreciate the impatience because of the delay in the beginning of this work, but we should proceed in a businesslike manner, taking first the necessary preliminary steps.

Mr. Burton then discussed the question of the neutrality of the canal.

element of absurdity about this. To maintain and fortify the canal would cause an expense which, in the original construction, would vastly increase the amount required. In its maintenance thereafter, if thoroughly provided for, it would require an army as large as the standing army of the United States.

On the Nicaraguan route there are 190 miles through a wild country, in which guerilla bands, by the loosening of overhanging rocks, or the explosion of a stick of dynamite in the wall of a lock or in a large dam, could destroy the use of the canal as a waterway for a year. In that unsettled country the danger of an obstruction or disorder is very considerable at best. We should diminish it by international arrangement rather than increase it. The whole theory of protection by fortifications will not bear examination. The danger would be from within and not at the two ends. To seek to protect it by frowning fortresses on either end would be like locating two stalwart policemen at the front and rear doors of a china shop and letting Texas steers loose on the inside.

In the use of the canal it is very doubtful whether we could rely upon it as a channel for our own war ships after a declaration of war, though a great advantage would belong to us in the proper location of the different ships of our navy before the war should begin. It is not at all probable that in a time of war any war ship of any country at war with us would attempt to use it. Does anyone believe for a minute that, with this canal under the control of American engineers, every lock and passageway controlled by Americans, the country settled, as it will be, by citizens of the United States, a war ship of a country engaged in a contest with us would turn its prow into the canal at either end and take the chances of getting through?

It would require more courage than has ever been displayed by any naval commander on land or sea. We may dismiss the idea of fortifications as a backward step in the world's progress, as a chimera in its practical results, as unnecessarily expensive, as unworthy of our position among nations.

On the subject of fortifications Admiral Dewey recently said:

Fortifications? Why, of course not. As I understand it, the canal is to be and should be a neutralized commercial pathway between the two great oceans. To fortify it would simply result in making it a battleground in case of war. Fortifications would be enormously expensive and ought not to be erected. Our fleets will be a sufficient guaranty of the neutrality and safety of the canal in time of war as well as in peace.

If there is one policy toward which the uniform course of the United States may be said to point it is that of neutrality in

Shall it be a neutral canal? To this question I say, decidedly, yes.

There never was a better time than now to repress the rampant spirit of jingoism in this country by declaring for an absolutely neutral canal. It is a time for scrupulous regard for the observance of treaty relations. This country has become too large, its trade relations are too wide, and its future growth and prosperity depend too much upon friendly relations with other countries to allow any selfish or narrow policy. The growth of our commerce, particularly of our exports, in recent years has been a marvel to the commercial world. Our future largely depends upon the continuing increase of this commerce. Nothing will stimulate its increase more than the respect and friendliness of other nations.

Just recently the Administration has gained a notable triumph in obtaining assurances from other powers of an open door in China;¹ yet in that country several European powers have squadrons and armies, fortresses, and spheres of influence established for many years. Is it consistent for us to ask this privilege there and yet say to the world that we will close an isthmian canal to other powers and seek to enjoy exclusive interests in it? We all must confess to a certain sentiment in favor of preferential advantages in peace and in war; but the advantages of action in comity with other powers outweigh any sentimental considerations. Practical advantages for such a policy of exclusion do not exist.

MR. HEPBURN.—Did not this Government specifically refuse to participate in that series of treaties that secured the neutralization of the Suez canal, being the only nation that specifically did refuse to do that?

MR. BURTON.—The refusal was not at all because we were opposed to the principle of neutralization. It was because it involved an implication of participation in the affairs of the Eastern Hemisphere in which we did not wish to engage.

MR. HEPBURN.—And, further, that it would imply that European nations would have a right to insist upon the neutralization of our canal.

MR. BURTON.—The gentleman can search the diplomatic correspondence, I think, and find not the faintest leaning in that direction; that that was any part of the reason.

First, in regard to fortifications, it seems to me there is an

¹ On September 6, 1899, John Hay, Secretary of State, asked for these, and within the ensuing year received affirmative responses from Great Britain, Germany, Italy, Russia, and Japan.

waterways, natural or artificial. Our country was among the most active in protesting against the sound dues imposed by the Government of Denmark, although ships had to pass within cannon shot of the shore. We insisted upon the continued neutralization of the Straits of Magellan. We secured by treaty stipulations the equal use of the St. Lawrence River through Canadian territory. We grant and receive equal privileges in canals near to the Canadian border.

The triumphs of our navy under Decatur, Bainbridge, and others against the Barbary pirates in the Mediterranean Sea injured not alone to our benefit, but to the safety of the commerce of the whole civilized world. In pursuance of this policy the general tenor of our diplomatic negotiations and legislation has been toward a neutral canal across the Isthmus. The Clayton-Bulwer treaty was sought by us rather than by Great Britain. It is to-day as valid and subsisting an engagement as any statute or treaty of the United States.

Three points are readily established from our history:

First. That our general policy has been in favor of a neutral canal across the Isthmus. This policy was absolutely without dissent for the first eighty-five years of our national existence.

Second. That the Clayton-Bulwer treaty was in pursuance of such policy.

Third. That the Clayton-Bulwer treaty is still in force.

As to the Hay-Pauncefote treaty, while I regard it as a triumph of diplomacy, removing obstructions which lay in the way, that is a matter which is now in a coördinate body, and I do not care to comment upon it. What should we do now? Congress should wait for this commission to finish its work; wait until it knows whether the dam shall be located in one place or another; wait until it shall know the approximate expense; wait until the route shall have been determined; wait until options on all the concessions required are obtained; wait until the State Department has concluded provisional treaties with those different nations, so that we may not be at the mercy of any nation that may desire to extort from us what it will. Our course should be for peace. The true American fosters no quarrels; he harbors no ill will; he resorts to war only as a last expedient, and will not, on light occasion, disturb the world's peace.

He is proud of his citizenship here and everywhere, but he recognizes that the growth of his country is part of a great world development without which his country could not have attained its present greatness. It is not because we are weak;

it is because we are strong that we can afford to make concessions. Though I stood alone, I would ask that this enterprise point toward neutrality and comity with other nations. I hope for results from the healing streams of commerce. Let the stains of bloodshed which have blackened the passing years of the nineteenth century disappear in the twentieth; and, in the coming era, just as in industry and growth of population, and in the many varied ways which belong to liberty and citizenship, we have taken the lead, so let us also take the lead in turning our faces to the dawn of a better day, in which peace shall prevail. [Applause.]

John B. Corliss (Michigan) supported the bill.

The expansion of our commerce, the life of our ever-expanding nation, must not be checked or circumscribed by the restriction of the ancient Clayton-Bulwer treaty.

This ancient agreement was abrogated by Great Britain over forty years ago, and was expressly repudiated by that matchless American statesman, Hon. James G. Blaine, while Secretary of State.

The unfortunate attempt of the present Secretary of State, Hon. John Hay, to resurrect this treaty, tie the hands of our military and naval power, and surrender the right of Congress to prescribe the conditions and uses of the canal, in my judgment, an infringement of the constitutional rights of Congress to govern and control the property and possessions of the United States, and should be speedily repudiated or permitted to sleep the sleep of death in the sacred archives of the Senate.

The gentleman from Ohio desires us to wait with the hope of acquiring some interest or control of the Panama Canal. This project was created by private interests and fostered by the French people through the distribution and sale of about \$250,000,000 of stock distributed throughout the French Republic in the hands of private owners, and it is stated by their representatives before the committee that their object in seeking aid from the United States was simply to secure the necessary money to complete the canal. They admit that it will cost upward of \$100,000,000 to complete it, and the only possible way our Government could become interested therein would be to become a partner in this project, which has ruined, both morally and financially, every prominent man ever connected with it.

The American people demand that this canal shall be owned, controlled, and operated by the United States Government without any association with any other interest in the world, and, consequently, the Panama canal project is impossible.

between the two countries became threatening. Thereupon Great Britain yielded and carried out, as President Buchanan says, their agreement to make treaties with the Central American states, fixing boundaries and titles and clearing the way for the canal.

Mr. Hitt then recounted diplomatic incidents showing that Secretaries of State Seward, Fish, Evarts, Blaine, Bayard, and Olney all had acted upon the theory that the treaty was in force.

The Hay-Pauncefote treaty of last February in its first words recognizes the Clayton-Bulwer treaty as in force. This bill directly disregards and defies it. It has been avowed here by the advocates of this bill that it is so intended. As the last gentleman on the floor said: "We will not recognize a treaty that stands in the way of something the people want."

Mr. Chairman, treaties are not at an end because they become onerous or burdensome to one of the parties. That is a reason for asking to change the terms, but not for violating national faith. If a treaty, owing to a change of circumstances, threatens the existence of a state which is a party to it; if the continuance of the treaty will overthrow its institutions and destroy it, then that prime law of necessity, to which Abraham Lincoln appealed in the war of the rebellion, which overrides the Constitution, can be appealed to. It is above all treaties and laws and constitutions; it is based on the necessity of actual existence. But not for light cause can a nation set aside a treaty, except through the wantonness of brutal power, the cynical disregard of moral law, the open perjury of a people. For can the solemnly pledged faith of a whole nation be lighter than any obligation an individual may take?

I would like to see this bill made efficient and this great work go on, but I can not give a vote to enact a bill which openly defies the plighted faith of my country, and such a measure is unnecessary. It is "periling our salvation gratis." The country that we propose to slap in the face in this manner is not so hostile as some gentlemen pretend. Why, sir, it is one of the reproaches—this is a presidential year, and therefore all invectives are in order—it is one of the reproaches urged against the present Administration, which is held responsible for everything everywhere, that this very country, Great Britain, is friendly and well disposed toward the United States.

If the amendments or new treaty provisions agreed upon between the representatives of the United States and those of

Robert R. Hitt (Illinois) defended the Clayton-Bulwer treaty.

The public faith of a nation pledged in a treaty has its sanction and basis in that system of morals which underlies our civilization and our institutions. A nation that will not tell the truth and keep its word does not deserve to be free. The Clayton-Bulwer treaty is old—60 years old—and that has been mentioned many times as if it were a reproach, as if the obligation to keep faith and tell the truth was temporary.

The Clayton-Bulwer treaty was made at our solicitation; it was done in pursuance of a long-established and often-proclaimed policy. In it we provided for the free use of the canal by all nations, and also for the extension to Central America of our own historical policy, called the Monroe Doctrine.

Our statesmen soon after the treaty had been ratified made complaint to Great Britain that she had not complied with its requirements. Those complaints were pressed with great force again and again, and in that correspondence it is demonstrated, I think, that Great Britain had failed to carry out the requirements of the treaty. Nevertheless we refused to abrogate it and held Great Britain to it.

The treaty provides that neither nation, the United States nor Great Britain, shall erect or maintain any fortification commanding the canal, or occupy or fortify or colonize or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America.

We claimed that she had disregarded that provision by holding these places I have mentioned. After long urgent discussion on our side, she at last yielded, as Mr. Buchanan, President of the United States, communicated to this House in a message.

MR. HEPBURN.—Does the gentleman think he is making a fair statement when he quotes President Buchanan?

MR. HITT.—Will the gentleman wait until I am done? I understand what you want to bring up of subsequent correspondence; I am familiar with its history.

I listened to the gentleman without interrupting when he uttered things so cynical concerning public faith that it defied the moral sense of mankind. [Laughter.]

During that controversy the British proposed to us to modify the treaty and we refused. They offered to arbitrate, and Secretary Cass refused it. They proposed to abrogate it and we refused. We refused to amend, we refused to arbitrate, we refused to abrogate, and we pressed so closely that the relations

Great Britain, changing this treaty, are not satisfactory to us, we have a constitutional way of reaching our purpose—amend the treaty in the Senate, or reject it there, and begin again. We are not in such bitter mood with Great Britain or so near war that we have to proceed at once to insolent defiance. Take the case of Russia humiliated in the Crimean war.

By the terms of the treaty of peace to which she had to submit when worsted by the allies, the Black Sea was closed to the Russian fleet, and the Bosphorus was closed to any fleet. After the Emperor of France fell at Sedan, on the 4th of September, 1870, Russia, seizing the occasion, sent a circular in October, 1870, to all the powers, saying that she desired the abrogation of that treaty; that the necessities of her growth as a country required that she should have fleets on the Black Sea side of the empire. No one in that country, which we consider barbarous, thought of such a proceeding as is proposed in the House of Representatives to-day—to utterly defy and violate a treaty which is in full force, which we have ourselves invoked five times and enforced upon Great Britain, which Great Britain has never denied or questioned, and which is to-day as vital and as binding upon the conscience of every American as is the last treaty with Spain. [Applause.]

Joseph G. Cannon (Illinois) spoke against the bill.

Eight hundred people under pay—150 civil engineers—have been at work for months under the law to get you all the information as to which is the best route; and here is full power, with an appropriation which is available, to make an agreement with the Panama Canal Company to make an agreement with Colombia for the other route, and to modify the Panama Canal franchise, and to make an agreement with Nicaragua and Costa Rica, and you play them one against the other. You have a threefold competition and can choose the best offer. Oh, do you not know that we are awfully afraid of trusts? Why, the Lord knows that no arrangement could be adopted that would beget a greater trust than this bill, so far as affecting the price of the site from Nicaragua and Costa Rica to the United States on which to construct this canal.

Now, men openly charge that people who are not friendly to the construction of an isthmian canal are promoting this bill. I do not know whether that is true or not. But it is true that honesty, if it is zealous without wisdom and without caution, is sometimes as bad as dishonesty mingled with wisdom. [Laugh-

ter.] I do say, and believe here and now, that, if this bill is enacted into law at this session of Congress, it will absolutely put weights upon us and hinder by years the construction of an isthmian canal, and will cost this Government at least \$50,000,000 more than it would if we waited until this report comes in, and if we get the agreement from the three parties as to the terms upon which they will part with their property, and play one against the other.

James R. Mann (Illinois) supported the bill. He particularly opposed the Hay-Pauncefote treaty.

Mr. Chairman, I think we ought to deal in perfect good faith with Great Britain. In whatever we do we should act in a manly way. The Clayton-Bulwer treaty was an absolute betrayal or misunderstanding of the best interests of our country. It yielded up the strongest protection for defence which any nation was ever granted by nature. But it is still legally in force. We have had our attention more particularly called to that treaty recently by the new treaty which has been negotiated. In the effort to escape the Clayton-Bulwer treaty the present Secretary of State has negotiated a new treaty, now pending in the Senate for disposition and known as the Hay-Pauncefote treaty.

The Hay-Pauncefote treaty does not remove any of the objectionable features of the Clayton-Bulwer treaty. No right which was yielded up by the former treaty is recovered by the new treaty. Under the Clayton-Bulwer treaty it was the expectation and intention that the company which was then in existence and which had acquired a concession from Nicaragua, would proceed with the construction of the canal with funds to be raised largely in England. One of the reasons given for entering into that treaty at the time was that in an enterprise of such great vastness it was necessary to have the financial support of England as well as of the United States in order to complete it, and, when the Clayton-Bulwer treaty provided that neither the one Government nor the other would ever obtain or maintain for itself any exclusive control over the said ship canal, it was intended merely to provide that neither Government should so obtain control over a canal as to fortify it or as to give preferential rates to the shipping interests of its own country over those of the other country.

Such provision was not put in that treaty for the purpose of preventing either Government from expending its own funds

in the mere construction of the canal. Either country would have been glad to have had the other country furnish the money with which to build the canal, provided it could be assured that the operation of the canal should be on even terms to the maritime interests of both countries.

There is not a single provision of any kind in the Hay-Pauncefote treaty in the interest of the United States in any way, shape, or manner. Not a single preference can be given to the vessels of the United States, either in time of peace or war.

The proposition of the Hay-Pauncefote treaty simply is this:

It is desirable to have a canal built, but private capital is no longer willing to enter upon such an adventuresome undertaking. No European government is willing to advance funds out of its own treasury for that purpose; but by the grace of its overflowing treasury and the consent of Great Britain, the United States may run all the risks of the adventure without any possible hope of special reward. In the benign goodness of her heart England will grant us the authority to expend from one to two hundred millions or more in an enterprise, not for our own special benefit, but for the benefit of humanity, civilization, and English shipping. We are kindly given the consent of Europe to break down the barrier of defence which protects our Pacific coast and our interests in the Pacific Ocean, and to bring our possessions there 10,000 miles nearer to the guns of the navies of Europe.

Mr. Chairman, I do not wish to pass any adverse criticism upon the distinguished gentleman who presides over our Department of State. He has proven his ability and his farsightedness on many occasions. His triumph of diplomacy in the open-door policy of China earns him the gratitude of America present and America future. I can very well understand that, bewildered by the clear paper title which Great Britain had to the continuance of the Clayton-Bulwer treaty and the embarrassments which were constantly arising over the propositions made in Congress that the United States should aid or undertake the construction of the isthmian canal, Mr. Hay finally entered into this treaty, giving our country as much consent as could be granted if the Clayton-Bulwer treaty were to remain in force, in order that public sentiment might be tested throughout the nation.

I cannot believe that either the Secretary of State or the great man at the head of the nation has ever in heart advocated the ratification of this treaty, which would forever put an end

to the rightful claim of supremacy for the United States in the Americas. But public sentiment has been tested. Our people do not favor the treaty. They do not wish it ratified. Speaking only for myself, I feel at liberty to say that, if the Hay-Pauncefote treaty should, by ratification, become a binding law upon this country, I should oppose in every way possible every proposition to construct an isthmian canal under its provisions.

Mr. Chairman, I favor an American canal, owned, controlled, fortified, and defended by the United States. Nature has granted to our country certain natural advantages for our own defence, which we ought not to destroy or in any way relinquish. We possess two great ocean coast lines, separated and far removed from each other. At the present time our Atlantic and Gulf coasts are the most vulnerable points of attack by a foreign sea foe. We have, in the past, at enormous expense attempted, and are now at still greater expense endeavoring, so to protect the points of attack on these two coast lines by land fortifications as to render them comparatively safe from assault and capture by the naval forces of an enemy.

But we have not been willing to trust to the land defences constructed through these great expenditures. In addition, we have proceeded on the line of policy of building up a navy which shall be equal in defence to any navy of the world. This the united wisdom of the country, without regard to party lines, has considered it necessary to do in order to protect our present points of attack and to maintain our power on the seas, as the condition of our hemisphere now exists.

Nature has provided us with a barrier of defence for California, Oregon, Washington, and Alaska which all the wealth, power, and ingenuity of man could not have erected. The fortifications erected by us on land may succumb before the assaults of the enemy or of time and neglect. But the barrier of distance—impassable space—can never be overcome except by a change of conditions. We are now free from attack in that quarter, except from Great Britain, and she could not use her present fleets with advantage to attack us there. From the other powers we are not only free from attack, but we are also free from even menace in that quarter. Sir, out on the Pacific will be the future great development of civilization, of progress, of commerce, of art and culture, of humanity itself. No one can measure the probabilities, much less the possibilities, of that region.

Shall we now maintain its splendid isolation from foreign invasion or attack or shall we, in our hunger for present com-

merce, barter away our birthright of safety for a mess of pottage of trade? Shall we, in our eagerness for riches, kill the goose which would lay for us the golden eggs?

I am aware, Mr. Chairman, that there are eminent minds in our country who insist that a purely neutral canal can be



TWO THINGS HE HAS LEARNED
From "Cartoons of our War with Spain" by Ch. Nolan

as easily defended as, and will be much safer than, a fortified canal. The distinguished admiral of the navy, flushed with the ease and completeness of his victory at Manila, has recently stated that the proper way to defend the Nicaragua canal is by a naval fleet. It is natural for him to magnify the importance and power of his branch of the service. Every department and branch of the public service does the same. But Admiral Dewey would not have won his victory and his laurels if the bay of Manila had been provided with proper land fortifications. Spain chose to rely upon her fleet for defence there, and we all know the rest. It is said that to fortify the canal would simply result

in making it a battleground in time of war. Mr. Chairman, the experience of all history shows that, if this canal be built unfortified and unprotected, it will then become not only the battleground in case of war, but the constant bone of contention and desire both in war and peace. To impregably fortify it at each end is to remove it from the field of battle.

Our recent war demonstrated the fact that the navy can not accomplish much against land fortifications. Sampson before San Juan, and Sampson and Schley combined before Santiago, should be sufficient proof that guns on land, properly protected, cannot be captured by guns on the sea.

And not only will land fortifications much better assure the protection of the canal, but that protection will be thus furnished at vastly less expense. Sufficient land fortifications can be erected at a small proportion of the cost of constructing and equipping a sufficient fleet.

The expense of care and maintenance will also be far less. If we propose to construct a canal as United States property, and then be prepared to guard and defend it with our navy only, we must contemplate the intention of providing a sufficient fleet at each end of the canal to withstand the assault, unprotected by guns on land, of any foreign fleet which may gather there. Such fleets could not be constructed, in the first instance, at a cost of less than \$80,000,000, and could not be maintained at less than an annual cost of probably \$5,000,000, in addition to the interest on the original cost. I protest, sir, against adding this heavy burden to the real and necessary cost of the Nicaragua canal.

Mr. Chairman, when the battleship *Oregon* was pursuing her historic trip from San Francisco to Santiago it seemed to be the common thought and expression of our country that if the isthmian canal had been in operation at that time the *Oregon* might have pursued her way through it unmolested to join our fleet hovering around Cuba or watching our own coast. Let us imagine, however, for the sake of a proper consideration of the subject, that an isthmian canal had been in operation at that time; that it was unfortified, absolutely neutral; that ships of war might pass into it, through it, out of it, unmolested and unattacked while so doing; and that because of the great marine interests of the other commercial nations of the world, which would thereby be so affected and injured, we would not have been willing to take possession of or close up the canal. What would have been the result?

If, under such circumstances, we had endeavored or at-

tempt to be obtained by friendly methods, and upon terms which will insure to your commercial interests equal treatment with our own through the canal; but that, in any event, we do not intend to be forever bound by those provisions of the treaty which would prevent our building and operating the canal as a national enterprise, and from fortifying and protecting our own. This would be no act of moral turpitude on our part. Experience, justice, propriety, and civilization would all justify us.

The Hay-Pauncefote treaty is worse for us than the Clayton-Bulwer treaty. The latter at least contemplated that the people of both nations should join in furnishing funds for the enterprise. The former contemplates that our country shall foot all the bills without receiving a single particle of additional benefit thereby, and without even being permitted to secure protection to the money which we invest. The Hay-Pauncefote treaty ought to have no friends and supporters in this country. It flies in the face of the line of policy adopted by our country for years. It is an absolute surrender, in principle, of the Monroe Doctrine and "America for Americans." The passage of this bill will be the finishing strokes on its coffin.

Oscar W. Underwood (Alabama) supported the bill.

It is contended that, should we construct the Nicaragua canal under the present bill, it would be in violation of the Clayton-Bulwer treaty, and that no action should be taken until the Senate of the United States disposes of the Hay-Pauncefote treaty now pending in that body. I do not propose to discuss here the treaty rights in which we may be involved in constructing an isthmian canal, but I contend that it is a proposition on which the House of Representatives has no power to act.

Under the Constitution of the United States the power to make treaties with foreign countries is vested in the President and Senate of the United States. No matter what we write in this bill, except the mere appropriation of the money to construct the canal, all other limitations can be overthrown by a treaty made by the President and Senate of the United States.

Therefore, if we intend to construct the canal, if we believe that it will build up our commerce and develop our country and bring prosperity to our people, there is but one provision in the bill in which we are concerned, and that is the appropriation of the money for its construction, and there is no reason why we should delay making this appropriation on account of other

tempted to interfere in any way with the free use of the canal by the vessels flying neutral flags, we would have been immediately interfered with ourselves and would have thereby enlisted on the Spanish side of the combat other nations of Europe, which only needed a reasonable excuse to take some part in the fray.

In my opinion, the lesson to be learned from the Spanish War and the naval operations therein is that it would be dangerous and unsafe for us to construct, or permit to be constructed, any isthmian canal through which a foreign foe could in time of war send its battleships.

I am not willing, sir, to lend my voice or vote in favor of our Government constructing, or permitting to be constructed, any canal connecting the Atlantic and Pacific waters which shall be so neutralized as to permit a foreign foe at war with us to pass her battleships from ocean to ocean. I would as soon agree not to attack the war vessels of a foreign foe while passing up the Mississippi or the Hudson. It would be, in my opinion, absolute folly for us to permit a canal to be constructed upon such terms of neutrality. I think it would be criminal idiocy. It would be not only to invite foreign attack, but to expose ourselves to easy attack. The idea is abhorrent to my mind. Unless I am blinded, its future effects would be most disastrous if not fatal to us.

For us to permit the construction by others of such a neutral canal would be an act of monumental folly almost unequaled in the experience of the world. But for us to undertake the construction of an entirely neutral canal ourselves, with our own money, located in a distant country, with no means of defence or protection except a navy, and thereby double the exposure of our entire coast to attack from a foreign foe, would be an act of foolish folly beyond proper characterization.

Mr. Chairman, Great Britain possesses the mightiest navy in the world. All other navies seem like infants or dwarfs beside hers. But has anyone heard that Great Britain proposed to dismantle her fortifications at Gibraltar and hereafter rely upon her navy entirely for her control of the entrance to the Mediterranean? Has anybody heard that England proposed to make the St. Lawrence River and Welland Canal neutral to our battle ships in time of war with us?

I would now say to Great Britain: In view of the change of conditions and the increase to us of the value of the canal, we respectfully ask you to release us from the obligations of the Clayton-Bulwer treaty, assuring you that we desire this

stipulations contained in this bill. If we are not willing to trust the President and the Senate to look after the American interests in making these treaties, we should not pass this bill; but, if we wish to pass a bill, we of necessity must leave the foreign questions involved in the construction of the canal to the President and Senate of the United States.

I believe that the time for action has come, and that those who are earnestly and truly in favor of the construction of the canal will vote for the passage of this bill.

P. D. McCulloch (Arkansas) moved to amend the bill by inserting the words "fortify and garrison."

John Sharp Williams (Mississippi) supported the amendment.

Mr. Chairman, if we can not insert the words contained in the amendment of the gentleman from Arkansas, I do not think that the omission of them would make quite as much difference as he seems to think. I feel certain of the fact that seventy-five or eighty million people are not going to spend one hundred and forty or one hundred and fifty million dollars for that great work and then tamely submit to its being taken away from them in case of war. I also feel certain of the fact that, whatever may be contained in any treaty now existing or hereafter to be entered into, a state of war would abrogate the treaty as between the belligerents, and that then the United States could and would, as against the other belligerent, assert its right of sovereignty, of control, of ownership of that canal, while, at the same time, allowing to neutral powers the passage of their vessels even during the time of war.

I feel not the slightest degree of hesitancy in trusting the American people to protect this canal, even under the language of this bill. I feel that even if the Hay-Pauncefote treaty were to be confirmed—and I am almost certain in my own mind that it never will be—the power given in that treaty to "police" the line of that canal could be taken advantage of for the purpose of garrisoning it in the first place, and in the second place leaving it unfortified perhaps in time of peace, but the moment the tocsin of war was sounded I am certain we would proceed with a garrison then and there to throw up earthworks and fortifications necessary to protect the interests of our people and their money invested in the canal.

Mr. Chairman, when I think of this long route by Cape Horn; when I think of the Southern cotton lying upon the banks

of the Mississippi on both sides; when I dwell upon the fact that the construction of this canal will virtually empty the Mississippi River into the Pacific Ocean, giving it a new mouth; when I think of the fact that the construction of this canal will realize the dream of Christopher Columbus and enable people to sail directly west from Europe to reach "far Cathay" and the "rich East where Prester John once ruled," it seems to me that all little matters in connection with the mere verbiage of the bill sink into absolute insignificance. [Applause.]

I shall vote for the amendment, and I hope it will not be defeated, because I think we ought to be plain about expressing beforehand what our undoubted intent is, and then if the amendment shall be defeated, I shall then vote for the bill, firmly believing that the mere fact of enabling the cotton goods of the South to reach Japan and China, Manchuria and Korea, with the obliteration of 10,000 miles of ocean transportation, will amount to something like a cent a pound of additional net receipts to every Southern planter upon every pound of cotton which he sells to those markets. I shall vote for the bill, because I believe it will carry Tennessee iron and coal entirely by waterway to a market where coal sells now for \$14 a ton, coal that we can get out of the mines at a cost of a dollar and a quarter a ton. I hope, Mr. Chairman, that the amendment will prevail. [Applause.]

The amendment was rejected by a vote of 66 yeas to 114 nays.

Benjamin F. Marsh (Illinois) wished to annex Nicaragua and Costa Rica.

It is rather humiliating to an American citizen that our Government should engage in the construction of this wonderful enterprise, involving an expenditure of one hundred and forty or one hundred and fifty million dollars, as a tenant upon foreign soil. I would rather construct this canal as a landlord than as a tenant. [Applause.] In other words, I wish it were in the power of this Congress and this Administration to-day to annex to this country both Costa Rica and Nicaragua and make them a part of this glorious Union of ours.

And, Mr. Chairman, when those countries become a part of the United States, who will be afraid of them? Who is afraid of contamination of the blood of the people of Costa Rica and Nicaragua? There are 80,000,000 of people here and a few hundred thousand down there. The infusion of their blood

into our veins and of our blood into their veins will Americanize them in two generations. [Laughter and applause.]

Jonathan P. Dolliver (Iowa) supported the bill.

I shall vote for this bill in obedience of what I believe to be the unanimous judgment of the American people. Yet I would not vote for it if it were not for the possibility, and I may say the certainty, that the bill in the course of legislation will lose some of the features which are objectionable. I do not like that feature of it which first locates the canal and then begins a negotiation with the States of Central America that are interested in the property to be taken and condemned. That feature of it I think ought to be guarded, and, I believe, will be before the legislation is finished. I do not believe either that the United States ought to set itself in a brutal way to ignore existing treaties.

I have read a good many of the treaties which we have with foreign countries, and about the only one of them I am able to thoroughly understand from the language of it is the Clayton-Bulwer treaty of 1850. I have read the opinions of statesmen and diplomatists about that treaty, and my judgment fully concurs with the judgment spoken here yesterday by the chairman of the Committee on Foreign Affairs [Mr. Hitt], that that treaty is in force and that no policy ought finally to be put into the form of law in this country which is not accompanied by a negotiation for the modification of that treaty. [Applause.] I believe also that this canal ought not to express merely the military prowess of the American people. I cherish the hope and the conviction that the world's civilization has advanced beyond that. I would have this canal express the aspiration of our people for a larger commerce and for a permanent peace among the civilized nations of the world. I take no interest in and give no consent to that argument, which is based upon a narrow view of patriotic duty, which claims that we should own this canal and operate it mainly as an instrument of war. As such an instrument it is not worthy of this age nor this nation. It is worthy of us only as it expresses the national aspiration for peace and for enlarged commerce which will reflect the progress and spirit of our age and of our civilization. [Applause.]

The bill was passed by a vote of 151 to 104.

The Senate referred the bill to the special committee

on Interoceanic Canals, the chairman of which, John T. Morgan (Alabama), reported it without amendment on May 14. Its consideration was deferred until the next session.



PAPA—"WHAT'S THE MATTER, WILLIE?"
WILLIE—"COME, QUICK; JOHNNY HAY'S IN TROUBLE."

By F. Oppen, in the *Hearst papers*

The Senate ratified the Hay-Pauncefote Treaty on December 20, 1900, but with three amendments, providing (1) that neutralization should not prevent the United States taking such measures as it might find necessary for its own defence and the maintenance of public order; (2) that the Clayton-Bulwer treaty be explicitly abrogated, and (3) that no guaranties be asked of non-constructing powers.

Great Britain refused to ratify the treaty as amended, and it expired by limitation on March 5, 1901. A new convention was signed by Secretary Hay and Ambassador Pauncefote on November 18, 1901. It met with little opposition in the Senate, and was ratified by that body on December 16. Great Britain ratified it on January 20, 1902, and it was proclaimed in force on February 22.

THE FINAL HAY-PAUNCEFOTE TREATY

Article I declared the present treaty superseded the Clayton-Bulwer Treaty.

Article II was Article I of the former Hay-Pauncefote Treaty [see page 358] unchanged.

Article III declared that the *United States* (not "the high contracting parties") adopted the rules of neutralization of the Suez Canal (repeated from the former treaty), with the following changes:

Sec. 1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Sec. 2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

Sections 3 to 6 of the former treaty remained unchanged. Section 7, prohibiting fortification of the Canal, was omitted.

Article IV was added:

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

CHAPTER IX

THE BATTLE OF THE CANAL ROUTES

William P. Hepburn [Ia.] Introduces Bill in House to Construct Isthmian Canal.—Debate: Mr. Hepburn, John F. Shafroth [Col.], Charles N. Fowler [N. J.], Allan L. McDermott [N. J.], Page Morris [Minn.], Robert Adams, Jr. [Pa.]; Bill Is Passed.—Debate in Senate on Panama or Nicaragua Route: In Favor of Panama, Marcus A. Hanna [O.], John C. Spooner [Wis.], Charles W. Fairbanks [Ind.]; in Favor of Nicaragua, John T. Morgan [A's.], John H. Mitchell [Ore.]; Panama Selected.

THE commission to investigate the rival canal routes reported in 1901. It declared both routes practicable, each possessing favorable features. Thereupon the French Panama company took heart and let it be known that they were ready to sell out to the United States Government or an American corporation.

On December 6, 1901, while the ratification of the second Hay-Pauncefote treaty was pending, but assured, William P. Hepburn (Iowa) introduced in the House a bill to provide for the construction of a canal connecting the Atlantic and Pacific Oceans. It was referred to the Committee of Interstate and Foreign Commerce. Mr. Hepburn reported it, with amendments from the committee, on December 19, three days after ratification of the treaty. It came up for discussion on January 7, 1902.

THE ISTHMIAN CANAL

HOUSE OF REPRESENTATIVES, JANUARY 7, 1902

MR. HEPBURN.—The purpose of your committee—the leading thought, next to securing the execution of this great work—has been to concentrate authority and responsibility. Therefore the bill has invested the President with all the authority necessary to accomplish all that is preliminary and then to accomplish

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the enterprise. With us the object is commercial, industrial, political, and the benefits to be secured can be enumerated under all those heads. In the case of the Suez Canal the only motive in its operation and maintenance is the commercial idea. Those who control it want to make the most they can out of the tolls. They want their 19 per cent. per annum upon the fabulous cost of that sea-level ditch, built without masonry or concrete—dug out with a shovel—a work which a Chicago man will duplicate to-day for \$5,000,000. Mr. Bates of Chicago, with one of those wonderful dredges of his, that removes to a distance of 1,000 yards 6,000 cubic yards of sand in every hour, would dig the whole canal in seven months, and do it for \$5,000,000. And yet the engineers who constructed the Suez Canal expended \$97,000,000 in its construction.

I believe that this House is to-day intent upon building the Nicaragua Canal. I ask that we now begin it. Gentlemen, has there not been talk enough in the years and centuries that have gone? Is it not time to do something? There are some interests in the United States which it is said will be harmed by the rivalry of this canal, and there are many gentlemen of honest purpose who think that either the time is not ripe, or that an enterprise of this kind should not be undertaken. There are men who are terrified by the specter of scandal, by the possibility of wrongdoing—men who feel that returns in money will not be ample. But I insist upon it that the American people have made their decree that the canal is to be built, and that now is the time to build it, and now is the time to commence it. [Applause.]

JOHN F. SHAFROTH [Col.].—What is your construction upon this bill and upon the late treaty that has been ratified as to the power of the United States to fortify the canal?

MR. HEPBURN.—I have not any doubt about the right of the United States to defend that canal and to do it in the way that seems wise to the United States. I know there are a great many gentlemen, skilled in the art of defence, who say that the proper place to defend this canal is upon the sea; who say that the works will be so expensive and difficult as to preclude their practicability; but I remember that we are spending millions of dollars every year in defending localities along our coast. The argument that can be made against the use of fortifications for the defence of this canal can be made against the use of fortifications at New York, at Philadelphia, at every point along the coast. If the navy is to be relied upon to defend the canal, why not rely upon the navy to defend New York and Philadelphia

this great work. At the same time, somewhat relentlessly, perhaps, we have thrust upon that officer the entire responsibility of this work in its execution. There is no divided authority under the terms of this bill. There is no commission. There is no place made in this bill for the retirement of partially defunct statesmen. [Laughter.]

MR. CHAIRMAN, I believe that this is wise policy. The first section of the bill authorizes the President of the United States to secure the control over that strip of territory lying in the State of Nicaragua on which he will be enabled to construct, protect, and operate this canal. The word "control" has been used, because in this connection I know of none of broader signification. Control includes sovereignty, jurisdiction, all efforts in the exercise of power. And so the word has been selected and used. I am told by those who are in a position to speak and to know that that word will be satisfactory to that government with which we shall have to deal.

I think there is no question that this enterprise will be of value to us. I have hoped that this canal could be used as a subsidy in promoting the rehabilitation of American shipping. I sometimes despair as to whether we shall be able, with the preconceived notions of many of our associates, to secure that aid in the form in which other nations give it, to upbuilding the merchant marine of the United States. There is something in the word "subsidy," coming down from the days of Thomas Jefferson, that excites the fear and disturbs the heart pulses of some of our brethren. I had hoped that by calling this by some other name they would be able to take much more kindly to the project, and that by the use of this great waterway free of all charge to the American citizen who in an American shipyard built a ship from American material, manipulated by American workmen, sailed by American sailors, loaded with American products, he could have the use of this canal free of all charge. [Applause.]

If that might be done, what an impulse that would give in the direction that you so much desire. The Liverpool merchant to-day trading with Hongkong, using a 6,000-ton ship, using the Suez Canal, pays \$24,000 of toll for the round voyage. What an infinite advantage would his American rival have, sailing his vessel from New York or New Orleans or Mobile, using this canal free of all tolls, as he goes upon his journey in competition with the English merchants.

The nation building this waterway removes all probability of cupidity on the part of a corporation that might control

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and New Orleans? But I do not take a great deal of stock in that kind of talk. I want to see the canal fortified whenever it is in peril.

CHARLES N. FOWLER [N. J.].—The gentleman stated in his remarks that it was possible that we could allow American ships to pass through the canal without charge. Is that his view in the light of the treaty?

MR. HEPBURN.—I said I had hoped that that would be the condition. I have no doubt but that the United States can use that canal in a manner advantageous to its own people above the advantage that it would be to other people, but I have not so carefully studied that treaty as the gentleman has done, perhaps. At all events, government ships will go through free, and at all events, there is that trend on the part of other nations toward yielding to the desires of the United States that makes me hopeful that if there was a barrier of that kind now we would brush it out of the way pretty soon. [Applause.]

ALLAN L. McDERMOTT [N. J.].—It is rumored that the Panama Canal can be purchased for the sum of \$40,000,000. If that be true, we would have a fiscal aspect in favor of the Panama Canal. Now, as the commission have given the price as a reason, in the concluding paragraph of the report, why they declare the Nicaraguan as the most feasible route, I desire the gentleman to answer the question, whether, in his opinion, if the fiscal proposition had been equal, and if we could obtain the Panama Canal as at present constructed, the commission would have reported in favor of that canal?

MR. HEPBURN.—I can not say what the commission might have done under other circumstances, but I believe that I can say that every gentleman who absorbs that report will come to the conclusion to favor that canal which is 400 miles nearer this country, that brings New Orleans 560 miles nearer to San Francisco than this other, that brings New York 375 miles nearer to San Francisco than this other—that that would be the better one for us to construct. [Loud applause.] I believe so supremely in the superiority of the route that is nearest to us that I want to labor, if I can, to carry out the views of the committee that I represent [applause]; and I look upon any attempt to entangle us in any way with the Panama Canal as simply another effort in the direction of delay. [Applause.]

PAGE MORRIS [Minn.].—Would there be any objection to so amending this bill as to give to the President of the United States the alternative power to construct the canal along the

line of the Panama route, provided the rights of the Panama Canal Company, free and clear of all incumbrance, could be obtained for \$40,000,000, and provided further that we could get equally favorable concessions from the Government of the United States of Colombia—I believe that is the proper title—

MR. HEPBURN.—I think it is—to-day. [Laughter.]

MR. MORRIS (continuing).—As from Nicaragua and Costa Rica?

MR. HEPBURN.—To my mind there would be objection. I am in favor of our determining this matter. It has been under consideration for a long time. I believe that the Nicaragua Canal route is the better one; and yet here is a foreign corporation with a stake, they say of \$109,000,000, our commission say of \$40,000,000. They are playing for that stake. They have everything to gain and nothing to lose. If they gain the half of it they are \$20,000,000 ahead.

MR. MORRIS.—You stated that it would take two years to get the harbors constructed and the railroad constructed before the work upon the Nicaragua Canal could be done.

MR. HEPBURN.—Yes, sir.

MR. MORRIS.—Now the harbors are already there on the other route. In view of this fact would there be any delay in allowing the President to institute negotiations and see whether these things can be accomplished or not, and letting him have power enough to select either route?

MR. HEPBURN.—I want to ask the gentleman a question. Would it not be better for us to go on and start this matter?

MR. MORRIS.—Decidedly.

MR. HEPBURN.—And if a proposition comes, tangible in its character, valuable in its essence, then during these two years there is ample time for that corrective legislation that the gentleman thinks ought to be initiated. [Loud applause.]

MR. MORRIS.—Possibly so; but in the meantime we could be making progress.

MR. HEPBURN.—In the meantime we are making progress now. We can not make any progress until a bill passes. And I confess that I do not want to have this great enterprise tarnished, tainted, by any connection with the discredited scheme of the Panama Canal. I do not want that kind of a heritage.

MR. MORRIS offered an amendment to the bill, the President to choose between Panama and Nicaragua.

Robert Adams, Jr. (Pennsylvania), supported the amendment.

buy from us because we have not sought their trade through proper channels or with proper energy.

The chairman of the committee held out an alluring bait that almost caught me in my earnestness for the building up of our merchant marine. He held out the vague hope that American ships might be allowed to pass through this canal without cost.

Why, Mr. Chairman, that would bring up a first principle of international law—that no government can levy a tax on the commerce of the high seas, and this canal with its neutrality preserved will occupy the same position as the high seas in relation to the commerce of other countries. And if perchance in our patriotism and our home policy we should undertake to maintain that for the rest of the world, the Panama Canal would be completed in the shortest possible time, for the combined wealth and ingenuity of Europe would be sent there and united together for its completion. They would be obliged to do it in self-defence.

Now, Mr. Chairman, I will close with one suggestion. This country found itself bound by the Bulwer-Clayton treaty. Why? Because it had been drawn as a compact between two nations, with all the honor of them at stake for its preservation. I may say that there was an unwritten compact with this republic when it gave its tacit permission to the citizens of France to construct that canal across the Isthmus of Panama. They did go ahead with the expenditure with the result that they lost all their money, and yet we have no responsibility for their foolish conduct.

But in the present condition, we having seen their hopeless condition, having seen their recklessness in their management, their agents having returned to France and submitted the question to the stockholders, and they now come forward in that straight, business-like way which we American people understand, and are ready to negotiate; they offer to sell their canal, at what price? No haggling this time; no uncertainty as to the valuation. They have allowed the agents of this House to appraise their property and to submit their proposition. Now, I ask if in all fairness we should not give these people a hearing? I believe as strongly and as enthusiastically as the chairman of the committee himself that a canal must be built, and of necessity; but I do say, what is to be gained by the little time, the few weeks of difference it would make in giving a hearing to these people, and to authorize the President, or, if you choose, the commission, to give them the alternative of these two routes?

Mr. Chairman, it seems to me curious that such different conclusions should be reached by those who read the report of this commission. Some are impressed with the idea that the whole report is to be read and interpreted on the condition that we can not buy the Panama Canal. I am one of those who take that view, for bearing that proposition in mind, I think any man who will read that report carefully will come to the conclusion that the commission advocate the Panama route.

First, it is shorter by many miles; second, it takes less time in transit; third, there are harbors already constructed at either end; fourth, it has a fewer number of locks through which ships must pass, and, fifth, and to my mind the most important of all, it can be maintained at an annual cost of \$1,300,000 less than the Nicaragua Canal can be maintained. I have as yet heard no one capitalize that cost and add it to the expense of construction of the canal.

Of course, none of us is responsible for the bad management and the fearful losses of the Panama Canal Company. With that we have nothing to do except to extend our sympathy to the unfortunate investors. The considerations which to my mind should control us here should be the benefit to the commerce of the world and the cost to the taxpayers of our country, and of these things, and of other facts which I will try to present to you, I shall have something to say.

The difference in the time of transit, according to the report of this commission, is the difference between twelve hours by the Panama route and thirty-three hours by the Nicaragua route. We are told that the Nicaragua Canal is a day nearer to San Francisco. My friends, if it takes a day longer, or twenty-two hours longer, to go through the Nicaragua Canal, where is the saving? The time will be exactly the same, within two hours. We are told that it is so much nearer San Francisco and the Orient as if that was the only trade that is to pass through the canal. Let me tell you that there is a trade in South America which our country has entirely neglected, which is simply waiting for American enterprise, waiting for our commerce to come, and we must not lose sight of the fact that the Panama Canal is twenty-four hours nearer to all that vast field for American exploitation. That country is not inhabited by Chinamen whose prejudices we must break down, whose wants we must cultivate in order to build up our commerce, but it is inhabited to-day by civilized people who have civilized wants already, who are buying from other countries, and who do not

I think it would be the part of sober action and of good judgment by this House.

MR. HEPBURN.—If it is true that the very setting of a day to consider this proposition by the House of Representatives induced this company to reduce their demands for the canal from \$109,000,000 to \$40,000,000, does not the gentleman think it would be wise for us to take another step and pass this bill with the possibility that they would take off another ten million? [Laughter and applause.]

MR. ADAMS.—I do not think so. I do not see very well, if we wish to treat our sister republic and its people with any show of fairness, why we should expect anything of the kind. I think that the amount that they have proposed is a fair price on what is left of this unfortunate enterprise, and I do not think the great American people, who have just given such evidence of their fairness and forced the rest of the world to treat China equitably, would be willing to occupy any such position; and I will say to the gentleman that it is the people of our sister republic who have made this loss, it is her people who helped to found this republic, it is her people that have been our allies throughout the existence of our country; and I will quote President Roosevelt in his message to this Congress, when he said the foreign policy was to be the Monroe Doctrine and the Golden Rule. I say if we wish to occupy that position toward our sister republic and the inhabitants of France, we of the United States must not press those unfortunate investors to the wall, for it is the widow and the orphan that are meeting the loss.

It was not the introduction of this bill that forced the French company to their present position. They knew this bill was coming. It had already passed the House of Representatives at the last Congress. They knew the sentiment of this House, and they knew it was going to prevail. The trouble was that their agents were in a most awkward position. They were sent out by the company, and if they asked too much they knew they would not get it, and if they asked too little they knew what would happen at home. What they anticipated has happened at home, and now under the new conditions their representatives are coming out to submit their proposition. I am informed by a gentleman on my left that they never asked one hundred and ninety millions; that they never asked anything, and so far as my own information goes they refused to make a definite proposition.

This is now purely a business proposition, and I think this

House should go a little slow. A delay of a very few weeks would not be much when we are told that there is a difference of four years in the completion of the Panama Canal as against that of the Nicaragua route.

Mr. Morris's amendment and others of the same tenor were defeated, and the original bill was passed on January 9 by a vote of 308 to 2.

The Senate referred the bill to the Committee on Inter-oceanic Canals, which reported it without amendment on March 13. It came up for discussion on April 17.

THE ISTHMIAN CANAL

SENATE, APRIL 17-JUNE 19, 1902

John T. Morgan (Alabama), chairman of the committee, supported the bill. On its limitation to the Nicaragua route, he said:

This is a canal that we have demonstrated to be practicable, feasible, permanent, safe, useful, and necessary to the people and Government of the United States.

It is a canal route that, if we do not adopt it, will pass into other hands and will be constructed, beyond our power to prevent it, unless by the employment of force and the disgrace of our country. It will be a canal which, in the control of any other power, can be used against us as a heavy handicap on our coastwise trade, or as a sword thrust between our coast line and the right arm of our naval power engaged in protecting the Panama Canal, 500 miles distant.

There ought to be reasons that are imperative to cause us to surrender such a canal for a possible saving of \$5,630,704, but there are none that are either imperative or valuable, or that are inviting or well founded. On the contrary, there are facts, stubborn and inevitable, that block the way to the acquisition and use of the Panama Canal and railroad by the United States, not one of which can be removed by the expenditure of \$5,630,704.

The feasibility, practicability, usefulness, permanence, and commercial value of the Panama Canal to the United States are all clouded with many doubts, any one of which detracts more

than that sum from its value, if there was no other possible route with which it could be compared.

Some of the gravest of these doubts, as to engineering results, are admitted to be beyond the limit of all engineering experience.

The Culebra cut is a question of doubt, with its landslides, and creeping clays, and its indurated clay, that melts in water.

Whether the Chagres River will repeat the floods of 1879 and remove, as it did then, the girders of the great steel bridge on the piers at Baracoa and flood the railroad track and the great swamps to the depth of 10 or 15 feet, and whether in such an event it can be shut out from the canal are matters of doubt. Whether any dam can stand such torrential floods and escape the fate of Johnston and Austin are questions that only the Chagres River will settle in the course of time.

A safe harbor at Colon and the safe passage of ships through a submerged channel three and one-half miles long at Panama when the wind rises and the tide is at the ebb are matters of doubt. They are matters in which doubts are apt to be resolved by destruction, as they have often been resolved at Colon. The abandoned anchors in the bay of Colon, left there by vessels that could not wait long enough to get them aboard when northerly winds drove heavy seas into the shallow bay, are mute witnesses to the reasons for such doubts.

The health of the Panama route can not be safely classed with the matters of doubt. It is a fixed condition that is in constant warfare with human life. It depends upon natural conditions that are beyond remedy, and as a fatal impediment to a successful gateway for the world it is beyond doubt.

The constant presence of yellow fever and Chagres fever is not alone due to the filthy condition of the cities of Panama and Colon or to the unclean habits of the people, nor is it due to mosquitoes. These are aggravations of fatal fevers that make them epidemic, but the seat, the habitat, the permanent home of yellow fever and dengue, or "Chagres fever," is in the city of Panama and the adjacent coasts.

From that center they spread through a fostering atmosphere and are transmitted by the constant and close association of a large number of people at work in a narrow space of country along the railroad and the canal diggings or traveling through it. Spreading from the principal breeding ground at Panama, these fevers permeate the atmosphere of the canal belt and spread through the hot depression leading to Colon, poisoning the people along the entire route, and from these seaports they

move out on the ships and attack all other ports. The yellow fever at Panama is *hostis humani generis*, and all the world can not conquer it.

The reasons are obvious. They are, certainly, three in number: First. The tide of 20 feet that rushes into the bay twice in twenty-four hours, bearing the refuse of the sea and decaying animal matter and leaving it to rot on the hot beach when it recedes. Second. The exposure of thousands of acres of mud flats to the sun when the tide goes out, to give off their pernicious exhalations. Third. The absence of winds to scatter or take the poisonous exhalations away from the beach and the Bay of Panama.

When these natural causes are removed, Panama can be made comparatively as immune from yellow fever as Habana and Santiago de Cuba appear to be. But they are immovable.

Connected with the health conditions at Panama, in such a way that it is inseparable, is the question of police jurisdiction and control of the bays of Colon and Panama, and of these cities. A joint control of these places is indispensable to sanitation and the preservation of the peace.

A mixed or joint control is incongruous, irritating, and dangerous. In fact, it is utterly inadmissible.

Personal liberty, in its most personal and individual sense, is always involved in the execution of health regulations, and such occasions require the exertion of the most direct and arbitrary authority, backed by force in frequent instances.

Panama has always been averse to the union with Colombia, preferring independence or a union with the other isthmian states. They have no patriotic sentiment and no identity of business relations to support the union with the continental States of Colombia. Constant jealousy has, on four occasions, broken out into open wars of insurrection since 1846.

There have been and are still internecine wars, and are all political in character. Holding Panama in the leash bound to Colombia, as we have been compelled to do and are now doing, we incur the natural resentment of those people, nearly all of whose possessions of any real value are at the canal terminals or near to its line.

If we acquire control of those people, along with the bays, the cities, the railroad, and the canal, we will encounter the serious difficulty of using and operating them among an unfriendly people.

These political, sanitary, police and social conditions are quite the reverse on the Nicaragua route. There we have no

natural causes of epidemic diseases to remove, and yellow fever has never been a visitor to the region in which the canal is located. It is a salubrious country, constantly fanned by the trade winds, with a temperature that varies only 30 degrees, between 56° and 96° Fahrenheit, with a lake system, 45 miles across and 140 miles long, in the center of the land, over which these winds move without obstruction.

The island of Ometepe, in Lake Nicaragua, has been selected by the common judgment of travelers as a sanitarium for seamen who will pass it on their long and weary voyages. The beautiful country is a place of refreshment for all voyagers, abounding in excellent fruits and supplies of fresh foods. The lake can be conveniently utilized for the repairs of vessels, even to the cleansing of the bottoms from the accumulation of sea grasses and barnacles that lower their speed while they are *en voyage* passing through its fresh waters.

But a much greater advantage as to sanitation and police is the fact that this fertile country is practically unoccupied, and, under our control, the future occupants will be subject to our selection. Bad characters can not congregate in the canal belt or in the ports, if we object. In Panama this vital question is one of expulsion. In Nicaragua it is a question of our permission. The difference is wide enough and sufficiently important to make it fundamental in the choice of a canal route.

There is no economic question connected with the future management of the canal of more importance than that of peopling the canal belt and the terminal cities with proper occupants.

On June 4 the minority of the committee presented a substitute bill authorizing the choice of the Panama route.

In their report the minority inveighed against the Nicaragua route as lying through a country liable to visitation of earthquakes.

Senator Morgan spoke against this report.

The part of the report of the minority that treats of volcanoes and earthquakes is so somber and threatening in its statements as to the awful danger of such disturbances, that I was dismayed when I first read it, and I wondered how the minority could so heroically declare that "First there must be a canal across the American isthmus." On further examination I saw

that the minority have found a "hole in the sky" through which they have discovered that earthquakes and volcanoes can not ever disturb Panama and that all we have to do to get a canal is to pay the Panama Canal Company \$40,000,000 for the privilege of constructing a canal at that heaven-favored location, and abandon the discussion as to the choice of routes.

If I were a prophet, as some Senators are assuming to be, I would prefer to be a prophet of good, instead of a prophet of evil, and to foretell that Mount Pelée and the Soufrière would expend their forces and cease to do evil; and I would point to the fact that they have not disturbed the isthmus at Colon, which is nearer to them than they are to Greytown, through any sympathy with their agitation, and that the recent great and disastrous earthquake in Guatemala has not made a ripple on the surface of Lake Nicaragua.

If the earthquake argument is the only way to defeat the Nicaragua route, I am very sorry that it will necessarily carry the Panama route down with it.

Senator Morgan renewed his objections to the Panama route because of the political complications likely to ensue.

If Colombia should oppress Panama, would we protect her against the revolt of the people of Panama on account of such wrongs? If we did so protect Colombia against such a revolt we would be interfering in her internal affairs, and if we did not compel the submission of Panama, without reference to her wrongs or sufferings, we would violate our treaty obligations to Colombia. It is a dangerous situation, in which Colombia can compel us to aid her in the oppression of her own people, and it is this that the proposed convention pledges us to do.

There is little doubt that Colombia would get rid of this thorn that has rankled in her bosom for sixty years and is now fighting her with gallant and determined energy if we would pay her the \$40,000,000 we are asked to vote to the Panama Canal Company for a canal that it is not able to complete, and that France will not aid it to complete. With a claim of title that is strong enough only to excite discussion among the lawyers and to promote speculation among stock gamblers, and with a reputation that the Isthmian Canal Commission has stamped as criminal, in its final report to the President, we would purchase troubles and evils that we can neither foresee nor provide against if we purchase the Panama Canal.

without advice acquired from the finest experts in the world. For what did we need an Isthmian Canal Commission if not to advise us upon all these questions of technique of which we are not supposed to be masters?

Some of them are loyally serving their country as officers in the army and navy; all were bound by their oaths, when they appeared before the committee, to tell the truth, without fear and without favor; and we have their unanimous report in favor of accepting the proposition of the Panama Canal Company.

Volcanoes and earthquakes seem to be a burning question just now while Mount Pelée is discharging its fire, and they have led to a more careful consideration of that matter. I might go back to the great speech made by Senator Davis of Minnesota, upon the very bill which was mentioned here yesterday as being the crowning effort of the Committee on Foreign Relations, and quote from him what is here verified by the map to-day as to the number of active volcanoes within the immediate range of the proposed route of the Nicaragua Canal.

If we have waited as long as we can or ought to wait, let us show wisdom enough in discussing and deciding this question to provide for any contingency which may occur in the future.

Let us adopt a route where as the commission say it may be possible—aye, it is possible, being only a question of dollars and cents—that a sea-level canal can be built.

The Panama Canal was commenced and intended to be a sea-level canal, and it would have been a sea-level canal had the project been carried out. I am told by engineers that there is nothing in the way, even after the Panama Canal shall be completed with locks, during and while it is in operation even, to make it a sea-level canal by paralleling certain parts of it.

You will find when this subject opens up that not only the questions of distance and of curvature and of locks enter into it, but that, in regard to the Nicaragua route, the trade winds blow every day in the year from 16 to 20 knots across the Nicaragua route. At the low speed at which a vessel will be compelled to operate in passing through a narrow canal, those winds would make it an absolute physical impossibility to keep her off the banks without the aid of tugs. The more I have studied this question from the standpoint of the vessel, the more I have been convinced that we never have gone far enough in dealing with the successful operation of the canal, even when we had but the one route to consider.

If we must encounter these adverse and disreputable conditions in order to get a canal, let us clear the field of all doubt and all reproach by the annexation of Panama, for it will come to that at last.

On June 5 Marcus A. Hanna (Ohio) supported the minority bill.

Mr. President, we have dwelt upon the question of the Nicaragua Canal as a sentiment until we have grown to believe that there was no other route possible or available. But other people have not thought so. Is it not fair to suppose that De Lesseps considered every question which we are liable to discuss to-day before he invested the money of his people and risked his reputation as to the success of it?

I want to confess that, in common with all my fellow-citizens, I shared in their feeling and belief; and, as the necessity seemed to grow and demand an isthmian canal, I would have been prepared, under the influences which then existed, to give my hearty support to that project, but it seems as if the fates were guiding us in the right direction, when, for some reason or other, we were deterred from building that canal which would have been obsolete to-day, and we were deterred from embarking in a project that, in the light of subsequent events, it seems to me would have been a mistake.

Mr. President, without going into detail, I want to call attention to a few reasons for which we are supposed to construct the canal.

First, we want the best route. What is the best route? The shortest route under like conditions. The Panama Canal route is 49 miles long, as against the 183 miles of the Nicaragua route.

There are physical conditions connected with the operation of the canal which are just as important as its length. Although you might have an ideal canal in all the physical conditions for which a canal is to be built, there might be other conditions which would render its operation almost impossible.

You build your canal for what? For the passage of vessels from ocean to ocean in the shortest possible time, at the lowest possible risk, and also on the most economical lines. That means success.

I do not believe there is a member of this body, designing to vote unselfishly and correctly, who would undertake to say what we shall do upon his own responsibility and information



PHOTOGRAPH BY CLERK CO. N.Y.

W. A. Hanna

The annual cost of operating the Nicaragua Canal is \$1,350,000, or, say, \$1,300,000, in excess of the Panama route. That is the interest on \$65,000,000. The extra expense of \$1,300,000 would, of itself, to any individual or private corporation proposing to invest their money in an enterprise like this, decide; and why should not the United States Government conduct its business upon business principles?

While we may not be constructing the canal for the purpose, in the first instance, of making money, if we have an opportunity to have a canal, and one that will not be a burden to the Government, is it not better to choose that route when we have the choice?

Another feature connected with the expenses of the canal is that along the line of the Nicaragua route it is a very doubtful question whether either the Government of Nicaragua or of Costa Rica is the bona fide owner of all the land and whether it could, if it would, pass the control of it to this Government without damages to other parties.

It is a matter of record and of history that the Maritime Canal Company was started a number of years ago under the auspices of one Menocal, who was quoted here yesterday as an authority. They spent some three or four or five million dollars, and purchased rights from Lake Nicaragua to the Pacific, which they claim to own to-day. They obtained concessions from Nicaragua and Costa Rica, which concessions they claim to-day have not been forfeited, and the record of the Interior Department shows that the United States Government has defended them as their right.

Those matters are to be settled with.

I for one am not disturbed with reference to the unsettled condition on the isthmus, which it has been stated is a chronic condition in Colombia, and you might add that there are others in Central and South America. If this canal will do anything, in addition to accommodating commerce, it will be a peacemaker, because being owned and controlled and defended by the United States it will be a power for peace wherever it is built.

When our authority is placed anywhere along that isthmus I have no fear of interference with the canal or with any citizen of the United States who may have charge of the management or conduct of the canal.

John H. Mitchell (Oregon) opposed the Panama route. In his speech he referred to the Maritime Committee as "Hanna's Commission."

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obtain a satisfactory title that then the way is open to construct the Nicaragua Canal. But let me tell you, Mr. President, the place and time to determine whether it is wise to have anything or nothing to do with this Panama venture is here and now.

On June 11 Charles W. Fairbanks (Indiana) explained and supported an amendment which had been offered by John C. Spooner (Wisconsin).

Senators have raised the question as to our ability to secure an unembarrassed title to the property of the new canal company. I do not believe their contention is well founded, but if I am in error in that view, and if those who believe with me are likewise mistaken, the Spooner amendment safeguards our interests.

The first section provides that the President may acquire on behalf of the United States the property of the new Panama Canal Company at a cost not exceeding \$40,000,000.

Section 2 provides that the President may acquire from the Republic of Colombia control of property and rights adequate for the construction and maintenance of the canal and appropriate a sum sufficient to effect this purpose.

Section 3 provides that when the President shall have obtained a satisfactory title to the property of the new Panama Canal Company and has secured the necessary property from the Republic of Colombia, he is authorized to pay the sum necessary to secure the canal property and the requisite concessions from Colombia. Not until the question of title, both from the canal company and from the Republic of Colombia, has been carefully determined does the United States part with a solitary dollar from the treasury. After satisfactory title has been acquired the Secretary of War is directed to proceed with the work of constructing the canal.

It is further provided by section 4 that if the President shall be unable to secure a satisfactory title to the property of the canal company, and the control of proper concessions from the Republic of Colombia, then he is directed to go forward and secure concessions along the Nicaragua route, and in the same manner construct a canal upon that route.

I differ with the honorable Senator from Kansas [William A. Harris], that this amendment is intended to defeat the construction of an isthmian canal. It is intended in a frank, straightforward, and intelligent way to secure a canal. The

To this insinuation Senator Hanna indignantly replied on June 6.

"Hanna's Commission," indeed! Why, Mr. President, in discussing this proposition, important as it is to the country, I seek to discuss it upon a higher level than that; and, if the appeal I make to this body does not carry with it the conviction that the route for which I stand is the best for the United States, then I should not personally desire to have it adopted. I said yesterday that there was no politics in this proposition, no sentiment in it, no sectionalism in it, and certainly there is no personality in it.

I have heard it urged that we ought not to consider the commercial side of this question. Mr. President, the commercial side of this question is the one side which interests all the people, East and West, North and South.

Where will you look for inspiration upon any great public question if you eliminate the necessities of the people by sneeringly calling them "commerce" or "commercial value"?

Mr. President, there is nothing inconsistent from a national and patriotic standpoint with the ambition and the aims connected with this enterprise, if we at the same time consider on parallel lines the material benefits which it is going to bring to the whole people. If we had the canal built to-day, after passing through all these discussions, and if we found that we had made a mistake in our selection, we would feel that something personal or sectional or otherwise had influenced our decision as against the advice and the judgment and the information furnished us by the highest possible authorities in the United States or elsewhere.

On June 7 Senator Mitchell further opposed the Panama route, chiefly because its selection would involve the United States in the French "Panama Scandal." This scandal he related in full, and then remarked:

In view of all these complications, in view of the fact that both the old canal company and the new canal company are still in the French courts, would any wise man in his senses risk the venture of investing \$40,000,000 in a property whose title is so clouded in so many different respects? Our friends on the other side may answer, and do answer, by saying that if the Spooner amendment is adopted and the President can not

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amendment is broad and liberal in its scope and purpose. It is founded upon the undivided judgment of a commission of eminent scientists and experts, patriotic citizens of the Republic.

I believe that after we have spent a million dollars and waited two and a half years for their report it would be utterly inexcusable if we should set their report aside as not worth the paper upon which it is written. That report is here. It means something. It is, sir, in my judgment, the only rational and safe predicate for the action of Congress upon this important subject.

On June 12 Senator Morgan opposed the Spooner amendment. He claimed that the new Panama company had nothing to sell; that they had forfeited the property to Colombia, who, after 1904, would have the right to take it over.

They commit an act of bankruptcy in falling from \$109,000,000 to \$40,000,000 in a proposition to sell that property. There is not a bankrupt court in the United States, nor in France, nor in the world that would sustain a sale made by an acknowledged bankrupt or by one who becomes a bankrupt and files his petition for a discharge when he claimed to hold a property worth \$109,000,000 and had sold it for \$40,000,000.

And yet upon technicalities our learned friends in the minority of this committee insist that that is a valid transaction and binding, not only upon Colombia, but upon the clean conscience of this great and noble Republic. I repudiate it. I deny the impeachment against my country, that it is capable of entering into as questionable a contract as that.

It is void, and not only void, but it is fraudulent, and the Colombian people represented by the Liberal Government repudiate it and give us notice that they intend in future to repudiate it. Are we still to persist in paying \$40,000,000 to the Panama Canal Company for a contract that is thus assailed and proved to be not merely void, but fraudulent, for that is what these men charge?

The people will make points upon Senators on either side of this chamber who undertake to deal with a corporation that is denounced by the liberal party, now in arms and fighting around Panama, as being absolutely and unquestionably violative of the Constitution of Colombia of 1886.

SENATOR SPOONER.—If they win and in season do not ratify a treaty, this bill provides for the Nicaraguan Canal!

SENATOR MORGAN.—Yes, Mr. President; but if you cannot get a title, then when you turn to Costa Rica and Nicaragua they will say, "Excuse us, you would have no dealings with us. You refused to accept the protocol of McKinley. When you found out you could not get a contract with Colombia you wish to stand upon it now. We agreed to make terms with you and you would not do it."

On June 19 the Spooner amendment was passed by a vote of 42 to 34. Senator Morgan offered a substitute for the bill that authorized the selection of the Nicaragua route. It was rejected by a vote of 41 to 33. The bill was then passed by a vote of 67 to 6.

The House disagreeing to the Senate bill, a conference was appointed, which reported on June 25, advising that the House accept the Senate bill. This the House did on June 26 by a vote of 260 to 8. President Roosevelt approved the bill on June 30, 1902.

CHAPTER X

THE PANAMA REVOLUTION

[THE COLOMBIA AND PANAMA CANAL TREATIES]

The Hay-Herran Treaty [Colombia] Debate in the Senate on Its Ratification: in Favor, Shelby M. Cullom [Ill.]; Opposed, John T. Morgan [Ala.]; Treaty Is Ratified—The Hay-Varilla Treaty [Panama]—President Roosevelt's Message on the Treaty—Debates in the Senate on the President's Recognition of Panama: in Approval, Joseph B. Foraker [O.]; in Disapproval, George F. Hoar [Mass.], John T. Morgan [Ala.], Edmund W. Pettus [Ala.]; the President's Justification of His Action.

THE State Department, after finding upon investigation that the French company had a valid title, entered into negotiations with it and with Colombia to secure the canal.

On January 22, 1903, a treaty was signed with Colombia (Hay-Herran Treaty) securing to the United States the right to build the Panama Canal.

For consideration of this and other treaties which had not been given in the regular session the President summoned the Senate in special session on March 5, 1903.

CANAL TREATY WITH COLOMBIA

SENATE, MARCH 9-17, 1903

On March 9 John T. Morgan (Alabama) opposed ratification of the treaty.

In the first one hundred years of the lease, under this treaty, we are to pay Colombia \$25,000,000 for the rent of the right of way for the canal and the railroad. In the same period we would have to pay Nicaragua \$2,500,000 and Costa Rica \$1,000,000, or \$3,500,000—a difference in favor of the Nicaragua route

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of \$21,500,000 for the use of the right of way for one hundred years.

We are required to pay Colombia and the canal company \$50,000,000 spot cash for the property and the concessions. The interest on this sum, at 3 per cent. for one hundred years, is \$150,000,000; total, \$200,000,000.

We will pay Costa Rica and Nicaragua \$7,000,000 spot cash, the interest on which at 3 per cent. for one hundred years is \$21,090,000; total, \$28,090,000.

The difference in favor of the Nicaragua route on account of right of way for one hundred years is \$171,910,000, or about enough to build the canal if it was owned by private persons.

These figures can neither be disproved nor explained away, and they justify all that we can do to save the country from this bondage to Colombia and the fraud-infected and fever-cursed Panama Canal.

When the Spooner amendment was adopted a state of facts had been settled between the United States and Colombia that made this blackmail apparently impossible, and it is impossible if that law is obeyed and enforced.

I know of no personal or official obligation that is higher than honest and respectful obedience to the law. This is especially to be required at the hands of the President, both for the benefit of a high example and because of his official duty to see that the laws are enforced.

It is a duty to Congress also that Colombia should not be invited by the President, with the advice and consent of the Senate, to assist in repealing the canal law of June 28, 1902, by a treaty with Colombia. That power was not given him for that purpose.

This treaty violates the spirit and the letter of every provision of that law which relates to the protection and defence of the canal, or of our people engaged in its construction and operation, and of our ships and commerce passing through the canal. Therefore the money appropriated in the act can not be paid out by the President for these new and different purposes.

Having stated some of the reasons why I can not support this treaty, and having prepared a substitute for it, by way of amendment, which accepts the Panama route and attempts to secure the rights that every American demands for his country, to which I respectfully ask for criticism or amendment, I will now proceed to state some objections to the manner in which this treaty is brought before the Senate and to the

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refusal of the President to reply to the request of the Senate for information touching the advice and consent he requests of the Senate, and which the Constitution requires this peculiar and powerful tribunal to give the President on such occasions.

I am well aware that some Presidents have regarded such advice and consent as intrusions upon some fancied prerogatives they have supposed that they possessed in virtue of the office. I have read our constitutional history amiss if there is a shred of the prerogatives of the English kings left to taint our constitutional system with the virus of this baneful pretension, and I hope our President is immune from that illusory imagination.

Whatever the President may have the right to withhold from the Houses of Congress, on grounds of public policy, he can not withhold from the Senate, when it is considering a treaty submitted by him, such information as he may possess, and especially such as is in the custody of the heads of departments and is found in the archives of the Government, when information is called for by a resolution of the Senate, without committing a distinct and grave breach of the privileges of the Senate.

In this case a question of serious importance that affects the honor of our dealings with the hostile factions in Colombia as well as the correct policy of the Government has been raised by two undisputed facts, namely, that the price of the concession provided for in the treaty before the Senate is greater by \$3,000,000 than the sum which Colombia agreed to accept, in diplomatic notes exchanged between our Secretary of State and the minister of Colombia on the 18th, 21st, and 23d of April, 1902; and that at the capitulation of the insurgents in Panama the promise was made by the Colombian Government to pay them \$3,000,000 of the money to be paid, as provided by this treaty, as the reward for their pacification.

I can not conceive of a treaty as being of undisputed validity which is made on behalf of a people who are in the distress and agitation of civil discord and which concedes vastly important rights to the United States, covering the perpetual control of a canal zone that cuts a department into two parts, when only a dictator holds the reins of power and one of its organic departments—the congress—is not in existence.

Much less can I believe that an acquisition of such territorial rights in Colombia will be accepted or endured by the present or the future generations of Colombia, and especially by the

gallant and intrepid natives of Colombia who belong to the great Liberal party of Spanish America.

I insist that the treaty needs amendment, and Senators, including the chairman of the Committee on Foreign Relations, admit that some of the amendments offered in the committee would improve the treaty and make it more acceptable to our people.

I have heard Senators announce that we must have this treaty, without amendment, no matter what its defects may be, because Colombia will reject it if any amendment is made to it.

If we lose this bargain, are there not others greatly to be preferred that await our acceptance? Do we suppose that the American people do not see the deception that we so cordially embrace? Being in no strait of necessity, we can not refuse to do what is right and dutiful as Senators, unless the Senate means to surrender its independence of thought and action to the arbitrary demand of the President.

I can not follow those who would sink the glorious prestige of the United States to the humiliation of a galley slave of Colombia. The desire of the President for what he may conceive to be a brilliant *coup d'état*, executed in company with Marroquin, the military dictator of Colombia, and the new Panama Canal Company, if he entertains that questionable ambition, suggests to me the need of a more patient conservatism among Senators as his constitutional advisers.

Turning to the treaty itself and the act of Congress that gave the President limited powers to treat with Colombia for canal concessions, and also to the convention agreed upon between Mr. Hay and Mr. Concha in April, 1902, I find all the light that is needed to reveal its deformities, its unworthy spirit, and its deep humiliation to the United States.

This treaty violates the letter and spirit of the act of June 28, 1902, in this:

(1) That it surrenders to Colombia 1,295,480 acres of land that is purchased under its provisions from the Panama Canal Company, at a cost of \$3,624,033, as I have above shown.

(2) That it pledges the United States, as guarantor, of \$1,000,000 to be paid to Colombia for canal stock, while we disclaim any liability on that account.

(3) That it yields to Colombia the concessionary right which we purchase from the Panama Canal Company of the exclusive right to construct in Colombia canals or railroads to connect the oceans.

its Pacific entrance, even to resist the fortress at Panama, which the act of Congress includes in the canal zone, or to protect the canal and the railroad against foreign assault, or from being raided by hostile parties in Colombia.

(13) That this treaty deprives the United States of all right to land military forces in the canal zone, except in cases of unforeseen and extreme danger to the canal, or to protect the canal against any foe unless Colombia is unwilling or unable to give such protection with her own forces, and it requires that our forces shall be instantly withdrawn from the canal zone when the forces of Colombia appear on the ground to take charge of the interruption.

On March 16 Shelby M. Cullom (Illinois) supported the treaty.

Mr. President: The consideration of the treaty with Colombia for the construction of a ship canal is about closed.

There can be no complaint from any source that a full and ample opportunity has not been given to each and every Senator to express his views at any length he desired on this important treaty. Numerous amendments have been proposed, freely discussed, and after full and fair consideration all of the amendments proposed have been disagreed to, and the question now is, shall the Senate, under its constitutional powers, advise and consent to the ratification of a treaty with Colombia for the construction of a ship canal?

In this last hour of the debate I deem it my duty to submit again, and have recorded, a brief statement giving my views as to the provisions of the treaty that have been most criticised in the Senate.

Since this treaty has been before the Senate we have heard a great deal about the character of the people of Colombia, and especially of the State of Panama. We have been told about the government of that country, and its President, and the conduct of affairs there generally. We have heard of the religion of the people of that country—of the church party and the antichurch party. It is not my purpose to in any way reflect on the Government of Colombia, its officers, or people. Whatever may be said of the religion of the people of Colombia and their internal affairs, I respectfully submit that that is a subject with which we have no particular concern.

It is not incumbent upon the Government of the United States to inquire into the election of executive officers in a republic with which we are attempting to negotiate a treaty. All

(4) That it pledges the United States to the perpetual obligation of the treaty of 1846-1848 with New Granada.

(5) That it prohibits the acquisition of territory by the United States in any part of Central or South America for all time to come, while it leaves Colombia under the civil or temporal supremacy of the Holy See of Rome by our silent acquiescence in the concordat of 1888 and its direct application to our citizens in Colombia and in the canal zone, whereby the foundation principle of the Monroe Doctrine is abandoned under our treaty obligations that our people should be subject to all the laws of Colombia while residing in that country or in the canal belt.

(6) That we are made to guarantee the autonomy and independence of every state in Central and South America.

(7) That we agree to pay Colombia \$10,000,000 cash for the rental of the canal belt, for which she bound herself to accept \$7,000,000 in April, 1902, by a diplomatic covenant, on which Congress acted in giving the preferential selection to the Panama route over the Nicaragua route, thereby ratifying and applauding an act of blackmail by a public treaty.

(8) That the treaty, in connection with the fifth article of the concession of 1878 to N. B. Wyse, prohibits us from sending our ships of war through the canal built with our money, without the express consent of Colombia, given by special treaty or by her act of congress, when we are at war with any other people or government.

(9) That, contrary to the act of June 28, 1902, the United States can only exercise police powers in the canal zone, in conjunction with Colombia, for the protection of the canal or our property there, or the property of the people of other nations there, or in preserving the peace or the health of that zone.

(10) That the cities of Panama and Colon are excluded from the canal zone, as the four islands in the Bay of Panama which belong to the canal company are excluded, when the act of June 28, 1902, included them in that zone.

(11) That Colombia reserves the right, in the canal zone fixed by said act, which extends from the Atlantic to the Pacific Oceans, to establish ports, under her exclusive jurisdiction, between the ports that the United States is allowed to open inland and the open ocean, thereby enabling Colombia to completely control those outside ports in ways that would, under this treaty, lawfully obstruct their free and convenient use as canal ports.

(12) That this treaty excludes the idea that the United States can erect fortifications at or near Colon, or on the four islands in the Bay of Panama that command the canal zone and

that we desire is that there be a government, whether *de facto* or *de jure*, in such country, which government is apparently dealing with us in good faith in the making of a treaty.

Neither is it any concern of ours what Colombia intends to do with the \$10,000,000 which we will pay her if this treaty is ratified. That is a matter in which we have no interest.

It is true that in the draft of an agreement which was submitted to Congress during the last session it appeared that Colombia was at that time willing to accept \$7,000,000. But the simple fact is when the present treaty under authority of act of Congress was being negotiated Colombia declined absolutely to take \$7,000,000 and insisted upon ten millions. If her former agreement to take \$7,000,000 was at all binding, which I doubt, we were simply compelled to pay \$10,000,000 or get no treaty.

All that can be said in reference to this is that Colombia insisted, as she had a perfect right to do, on being paid \$10,000,000, and nothing remained for us to do except to pay her that amount of money or drop the negotiations.

Now, Mr. President, much has been said on the question whether the treaty before us is such a compliance with the Spooner Act as will authorize the President to pay the \$40,000,000 to the Panama Canal Company and the \$10,000,000 to Colombia, which we appropriated during the last Congress.

In my judgment, if this treaty is ratified the President will be advised by the Attorney-General that there has been a sufficient compliance with the Spooner Act.

Section 1 of the Spooner Act provides that the President is authorized to acquire, at a cost not exceeding \$40,000,000, the rights, privileges, franchises, concessions, grants of land, right of way, unfinished work, etc., and other property, real, personal, and mixed, of every name and nature, owned by the new Panama Canal Company, including 68,863 shares of the Panama Railroad Company.

The President has complied with this section of the act by accepting the offer of the Panama Canal Company to sell its property to the United States at \$40,000,000.

The second section provides in substance that the President is authorized to acquire from Colombia upon such terms as he may deem reasonable perpetual control of a strip of land, not less than six miles in width, extending from the Caribbean Sea to the Pacific Ocean, and the right to excavate, construct, operate and protect thereon a canal, including the right to perpetually operate and maintain the Panama Railroad Company, and also

jurisdiction over said strip and the ports at the ends thereof, to make such police and sanitary regulations as shall be necessary to preserve order and health, and establish tribunals, etc.

The President has complied substantially with this section.

The first question in reference to this is, is the control for the term of one hundred years, renewable at our sole and absolute option for periods of similar duration so long as we may desire, "perpetual control"? I maintain that to all intents and purposes it is perpetual control. The treaty gives us control of the zone forever at our option. The word "perpetual," as used in this treaty, has no particular technical meaning in law. The word is given its ordinary meaning, which is: "Never ceasing; continuing forever in future time; destined to be eternal; continuing without interruption."

We obtain by this treaty a never-ceasing control of the canal zone; it will continue forever, by its very terms, if we so desire it; it is destined to be eternal, and it will continue without interruption. The intent of the Spooner Act in this respect is substantially complied with. All that was contemplated by that act was that we should have an irrevocable control, so far as Colombia is concerned, over the canal zone. We obtain such control by the treaty.

The next question is, Does the treaty give us a six-mile zone from the Caribbean Sea to the Pacific Ocean, as provided in the act?

I maintain that that provision has also been substantially complied with. We obtain by this treaty considerably more than a six-mile zone all along the route of the canal, excepting at two points—Panama and Colon. At Panama, for a very short distance, the zone is one and one-half miles wide on one side and a little over three miles on the other. At Colon it is less than three miles on one side and a little over three miles on the other. There has been such a substantial compliance with the act in respect to the zone that the exception of Panama and Colon is not important. In addition to this it must be remembered that we obtain more than a six-mile zone along all auxiliary canals. So, as a matter of fact, we obtain a wider zone and a greater zone (excepting at the two points I have mentioned) than the act provided. There is no fatal variance in this regard between the act and the treaty. The Spooner Act provides that the strip of territory shall extend from the Caribbean Sea to the Pacific Ocean. The very terms of the treaty comply with the act in this respect.

We obtain the perpetual control of the railroad, as provided

under consideration expressly says that such rights of Colombia to the said shares exist only as a stockholder, and that no obligation under this provision is imposed upon or assumed by the United States.

Reference has been made to the treaties of 1846-1848 between the United States and Colombia and to the Hay-Pauncefote treaty.

Both of those treaties, as is well known, refer to neutrality.

The treaty of 1846, which the present treaty provides shall remain in full force as to the cities of Panama and Colon and elsewhere in Colombia, was a treaty of friendship entered into between the United States and Colombia in 1846. This treaty was entered into in contemplation of the construction of a canal across the Isthmus of Panama. The present treaty provides that we shall continue to guarantee the neutrality of the isthmus, in conformity with the provisions of article 35 of the treaty of 1846.

By article 35 of that treaty we agreed to do two things in particular. We guaranteed the neutrality of the isthmus, and we guaranteed the rights of sovereignty and property which Colombia has and possesses over said territory. The treaty of 1846 is still in force between the United States and Colombia. We are still bound by it, and there is no objection to our continuing to be bound by it under the present treaty.

As to the Hay-Pauncefote treaty, Article XVI of the treaty under consideration provides for the opening of the canal upon the terms provided for by section 1 of the Hay-Pauncefote treaty, and in conformity with all the stipulations of that treaty.

The provisions of the Hay-Pauncefote treaty are very familiar to Senators. It abrogated the Clayton-Bulwer treaty; it provided for the neutrality of the canal, and it contained certain rules governing such neutrality.

There is no objection that I can see in incorporating the Hay-Pauncefote treaty in the treaty before the Senate. That treaty is already a binding obligation upon us. We intend to observe it. We want a neutral canal. We want a canal that will be to the interest of the world to use and protect. The United States does not desire a canal for its own exclusive use.

In the discussion of the Hay-Pauncefote treaty it was well settled to the satisfaction of most Senators that there was nothing in that treaty which prevented our fortifying the canal if we so desired. There is not a word in this treaty that will prevent our fortifying and protecting this canal if an emergency arises which makes it necessary for us to do so.

in the act. We obtain jurisdiction over the strip, and substantially over the ports at the end thereof, to make police and sanitary regulations, as provided in the act. The treaty provides for the judicial tribunals, as stipulated in the act.

Section 3 of the act provides that when the President shall have done the things required of him in sections 1 and 2—namely, acquired the property of the new Panama Canal Company and obtained a satisfactory treaty with Colombia—he is authorized to pay for the property by warrants drawn by himself.

Now, Mr. President, as I have stated, there has been a substantial compliance with the Spooner Act. It is a primary rule of construction that in cases of this kind one treaty or one law must be construed with another, so that the whole may stand, if possible. Repeals by implication are not favored by the courts. The Supreme Court, before it will declare that a law repeals another law or a treaty repeals a law, will require that the later provision is certainly and clearly in hostility to the former, and if the two statutes or the treaty and statute can be construed so that they both can stand they will be so construed.

In connection with this particular branch of the subject I desire to take a very few minutes in talking about the public lands.

As I view this subject, we have obtained all and more than all the lands which we can possibly need. Most of the lands situated in the six-mile zone are now owned by the canal and railroad companies; and these lands we of course acquire under our contract with the canal company. The mere right of the canal and railroad companies to earn the said lands situated outside of the zone reverts to Colombia. The President had a perfect right to make this agreement providing that the rights to the public lands outside of the zone shall revert to Colombia.

It has been claimed that we assume obligations in reference to the shares of the Panama Canal Company which Colombia holds and which the treaty provides shall be paid their full nominal value at least.

By Article IV of the extension of 1890 of the Wyse concession of 1878 the Panama Canal Company agreed to issue to Colombia, gratis, 5,000,000 francs in 10,000 dividend-bearing shares of the new company.

These are the shares referred to in the treaty under consideration. The United States assumes no obligation or liability whatever in reference to these shares, as Article I of the treaty

Now, Mr. President, I desire to say a word about our guaranty of sovereignty of the Republic of Colombia.

Our guaranty is no greater than the guaranty which we gave her in the treaty of 1846. We are still bound by that treaty, and the reference to sovereignty of Colombia in this treaty is only a restatement of what we are already bound to acknowledge by a treaty made half a century ago.

As to the statement in reference to our intention not to increase our territory at the expense of any of the sister republics of Central or South America, but to strengthen them, and to promote and develop their prosperity and independence.

That statement is a mere recital, a mere reiteration, of a policy which is as old as the Government of the United States itself. It was to promote that policy that President Monroe promulgated the famous Monroe Doctrine.

Mr. President, the article about which there is more difference of opinion, as to the propriety of its remaining in the treaty, is the twenty-third article.

By that article Colombia agrees to provide the armed forces necessary for the protection of the canal, but if Colombia can not effectively do so, then, with her consent, the United States shall employ such forces as may be necessary.

If it were not for the clause which follows, the provision I have read would be objectionable. But the twenty-third article continues:

Under exceptional circumstances, however, on account of unforeseen or imminent danger to said canal, railways, or to the lives and property of the persons employed upon the canal, railways, etc., the Government of the United States is authorized to act in the interest of their protection without the necessity of obtaining the consent of Colombia beforehand.

This provision removes the objection from the so-called joint protectorate. The United States will determine what are exceptional circumstances and unforeseen or imminent danger. Those terms are susceptible of a very broad construction. I think I am safe in saying that, if it ever becomes necessary to fortify or protect the canal by armed forces, it will be a case of unforeseen or imminent danger, or an exceptional circumstance.

In addition to this, other articles in the treaty give us ample powers to protect the canal.

In addition to all this, there is no probability at all that Colombia desires to, or ever will, or ever will be able to protect the canal by armed forces. She is not able to do so if she desired, and the United States, of course, will have to and will protect

the canal by armed forces whenever it is necessary, and we will do it without any violation of the twenty-third article of the treaty with Colombia.

Another suggestion in this connection: It must be remembered that the canal will be a neutral one. That was the purpose of the Clayton-Bulwer treaty; that was the purpose of the first Hay-Pauncefote treaty, and the neutrality feature was retained in the second Hay-Pauncefote treaty.

Now, Mr. President, a word as to Colombia's concessions under this treaty. Her concessions are not unimportant. She gives us the six-mile zone. She gives us the right to perpetually maintain and operate and protect thereon a canal. By the twenty-second article of the treaty she renounces all her rights under the concessionary contract she has with Wyse, with the Panama Canal Company, and with the railroad company.

For these important concessions we pay Colombia in cash \$10,000,000, and at the end of nine years we commence paying her an annuity of \$250,000, which is not changed during the life of the present treaty, and this treaty is a perpetual one.

Mr. President, one word in conclusion. The suggestion has been made here that it is humiliating for this great country to be compelled to yield in any degree to Colombia in the terms of this treaty. It has been suggested that Colombia is a small country, scarcely worthy of consideration. Whatever may be the facts in relation to the strength of Colombia or to its weakness, this Government is too great, too honorable to take advantage of the weakness of sister republics in any international dealings we may have with them. Colombia is an independent sovereign country. It should be treated with the same consideration as the greatest nation in the world. It has been the well-settled policy of the United States to deal with the great and small nations alike. The United States never has and never will demand more of a small, weak country than it would demand of the strongest under the same circumstances.

I desire in these last words to most unqualifiedly condemn any suggestions that the United States should take advantage of any country, great or small, in our dealings with them, either upon the question of a canal or any other question.

Senator Morgan closed the debate with a reiteration of the superior advantages of the Nicaragua route. Recognizing that Panama had been settled upon by the controlling spirits of the Government, his final appeal was a despairing one.

THE PANAMA TREATY

PRESIDENT ROOSEVELT

Last spring, under the act of June 28, 1902, a treaty concluded between the representatives of the Republic of Colombia and of our Government was ratified by the Senate. This treaty was entered into at the urgent solicitation of the people of Colombia. In drawing up this treaty every concession was made to the people and to the Government of Colombia. We were more than just in dealing with them. Our generosity was such as to make it a serious question whether we had not gone too far in their interest at the expense of our own; for in our scrupulous desire to pay all possible heed, not merely to the real but even to the fancied rights of our weaker neighbor, who already owed so much to our protection and forbearance, we yielded in all possible ways to her desires in drawing up the treaty. Nevertheless the Government of Colombia not merely repudiated the treaty, but repudiated it in such manner as to make it evident by the time the Colombian Congress adjourned that not the scantiest hope remained of ever getting a satisfactory treaty from them. The Government of Colombia made the treaty, and yet when the Colombian Congress was called to ratify it the vote against ratification was unanimous. It does not appear that the Government made any real effort to secure ratification.

Immediately after the adjournment of the Congress a revolution broke out in Panama. The people of Panama had long been discontented with the Republic of Colombia, and they had been kept quiet only by the prospect of the conclusion of the treaty, which was to them a matter of vital concern. When it became evident that the treaty was hopelessly lost, the people of Panama rose literally as one man. Not a shot was fired by a single man on the isthmus in the interest of the Colombian Government. Not a life was lost in the accomplishment of the revolution. The Colombian troops stationed on the isthmus, who had long been unpaid, made common cause with the people of Panama, and with astonishing unanimity the new republic was started. The duty of the United States in the premises was clear. In strict accordance with the principles laid down by Secretaries Cass and Seward, the United States gave notice that it would permit the landing of no expeditionary force, the arrival of which would mean chaos and destruction along the line of the railroad and of the proposed canal, and an interrup-

Mr. President, I leave this subject to take care of itself from this time forward. I will await a time to see whether or not there is a chance for the United States to accept that beautiful and inviting situation created in Nicaragua by the hand of nature, a location that is more convenient than any other place in the world for an isthmian canal; a healthy and fertile zone in a country of splendid agricultural, mineral, and forestry possibilities and resources, occupied by a quiet, gentle people, where the canal zone, from Greytown to Brito, would perhaps not include 3,000 inhabitants, and where, under the permissions given to us under the proposed treaties with Nicaragua and Costa Rica, we could admit or refuse the privilege of residence in that zone to any who might apply, a healthful and beautiful country, where Americans could gather with their industries and their trades in the very heart of the great equatorial belt that will pass around the world. We throw that all away. We throw away a canal for which we have spent nearly two millions in surveys, against which no breath of suspicion was ever raised by any survey or any commission of examination or by any engineer or explorer or traveler who has ever been there, which is absolutely free from all exceptions and objections. We cast it aside and plunge into the fever-laden morasses of Panama. Why, Mr. President, why? Because we are led or driven by some hidden impulse that there is no man in the Senate who is prepared to weigh or to measure, or to explain or account for.

The treaty was ratified by the Senate on March 18 by a vote of 73 to 5. Colombia, however, refused on her part to ratify the treaty, demanding a cash payment of \$15,500,000. The result was the secession of the State of Panama from the United States of Colombia, the recognition of its independence by the United States, and the formation by the United States of a treaty (Hay-Varilla) with her on the terms formerly offered to Colombia, but with amendments substantially the same as those offered by Senator Morgan to the Colombia treaty (Hay-Herran).

On December 7, 1903, in his third annual message to Congress, President Roosevelt presented an account of the fate of the Hay-Herran treaty, and of the consequent actions of the United States Government, together with a justification of these actions.

tion of transit as an inevitable consequence. The *de facto* Government of Panama was recognized, and the Government of Colombia was notified of our action.

The control, in the interest of the commerce and traffic of the whole civilized world, of the means of undisturbed transit across the Isthmus of Panama has become of transcendent importance to the United States. We have repeatedly exercised this control by intervening in the course of domestic dissension, and by protecting the territory from foreign invasion. In 1853 Mr. Everett assured the Peruvian minister that we should not hesitate to maintain the neutrality of the isthmus in the case of war between Peru and Colombia. In 1864 Colombia, which has always been vigilant to avail itself of its privileges conferred by the treaty, expressed its expectation that in the event of war between Peru and Spain the United States would carry into effect the guaranty of neutrality. There have been few administrations of the State Department in which this treaty has not, either by the one side or the other, been used as a basis of more or less important demands. It was said by Mr. Fish in 1871 that the Department of State had reason to believe that an attack upon Colombian sovereignty on the isthmus had, on several occasions, been averted by warning from this Government. In 1886, when Colombia was under the menace of hostilities from Italy in the Cerruti case, Mr. Bayard expressed the serious concern that the United States could not but feel that a European power should resort to force against a sister republic of this hemisphere, as to the sovereign and uninterrupted use of a part of whose territory we are guarantors under the solemn faith of a treaty.

History establishes beyond question: First, that the United States has for over half a century patiently and in good faith carried out its obligations under the treaty of 1846; second, that when for the first time it became possible for Colombia to do anything in requital of the services thus repeatedly rendered to it for fifty-seven years by the United States, the Colombian Government peremptorily and offensively refused thus to do its part, even though to do so would have been to its advantage and immeasurably to the advantage of the State of Panama, at that time under its jurisdiction; third, that throughout this period revolutions, riots and factional disturbances of every kind have occurred one after the other in almost uninterrupted succession, some of them lasting for months and even for years, while the central government was unable to put them down or to make peace with the rebels; fourth, that these disturbances,

jurisdiction over said strip and the ports at the ends thereof, to make such police and sanitary regulations as shall be necessary to preserve order and health, and establish tribunals, etc.

The President has complied substantially with this section.

The first question in reference to this is, is the control for the term of one hundred years, renewable at our sole and absolute option for periods of similar duration so long as we may desire, "perpetual control"? I maintain that to all intents and purposes it is perpetual control. The treaty gives us control of the zone forever at our option. The word "perpetual" as used in this treaty, has no particular technical meaning in law. The word is given its ordinary meaning, which is: "Never ceasing; continuing forever in future time; destined to be eternal; continuing without interruption."

We obtain by this treaty a never-ceasing control of the canal zone; it will continue forever, by its very terms, if we so desire it. It is destined to be eternal and it will continue without interruption. The intent of the Spooner Act in this respect is substantially complied with. All that was contemplated by that act was that we should have an irrevocable control so far as Colombia is concerned, over the canal zone. We obtain such control by the treaty.

The next question is, Does the treaty give us a six-mile zone from the Caribbean Sea to the Pacific Ocean, as provided in the act?

I maintain that that provision has also been substantially complied with. We obtain by this treaty considerably more than a six-mile zone all along the route of the canal, excepting at two points—Panama and Colon. At Panama for a very short distance the zone is one and one-half miles wide on one side and a little over three miles on the other. At Colon it is less than three miles on one side and a little over three miles on the other. There has been with a substantial compliance with the act in respect to the zone that the exception of Panama and Colon is not important. In addition to this it must be remembered that we obtain more than a six-mile zone along all auxiliary canals. So, as a matter of fact, we obtain a wider zone and a greater zone (excepting at the two points I have mentioned) than the act provided. There is no fatal variance in this regard between the act and the treaty. The Spooner Act provides that the strip of territory shall extend from the Caribbean Sea to the Pacific Ocean. The very terms of the treaty comply with the act in this respect.

We obtain the perpetual control of the railroad, as provided

in the act. We obtain jurisdiction over the strip, and substantially over the ports at the end thereof, to make police and sanitary regulations, as provided in the act. The treaty provides for the judicial tribunals, as stipulated in the act.

Section 3 of the act provides that when the President shall have done the things required of him in sections 1 and 2—namely, acquired the property of the new Panama Canal Company and obtained a satisfactory treaty with Colombia—he is authorized to pay for the property by mortgage loan by himself.

Now Mr. President, as I have stated, there has been a substantial compliance with the Spooner Act. It is a primary rule of construction that in case of this kind one treaty or one law must be construed with another, so that the words may stand, if possible. Repeals by implication are not favored by the courts. The Supreme Court, before it will declare that a law repeals another law or a treaty repeals a law, will require that the later provision is certainly and clearly in conflict to the former, and if the two statutes or the treaty and statute can be construed so that they both can stand they will be so construed.

In connection with this particular branch of the subject I desire to take a very few minutes in talking about the public lands.

As I view this subject, we have obtained all and more than all the lands which we can possibly need. Most of the lands situated in the six-mile zone are now owned by the canal and railroad companies; and these lands we of course acquire under our contract with the canal company. The mere right of the canal and railroad companies to earn the said lands situated outside of the zone reverts to Colombia. The President had a perfect right to make this agreement providing that the rights to the public lands outside of the zone shall revert to Colombia.

It has been claimed that we assume obligations in reference to the shares of the Panama Canal Company owned by private holders and which the treaty provides shall be paid their full nominal value at least.

By Article IV of the extension of 1896 of the Wyse concession of 1850 the Panama Canal Company agreed to issue to Colombia, gratis, \$400,000 francs in 1900 dividend-bearing shares of the new company.

These are the shares referred to in the present under consideration. The United States assumes no obligation or liability whatever in reference to these shares, as Article 6 of the treaty

under consideration expressly says that such rights of Colombia to the said shares exist only as a stockholder, and that no obligation under this provision is imposed upon or assumed by the United States.

Reference has been made to the treaties of 1846-1848 between the United States and Colombia and to the Hay-Pauncefote treaty.

Both of those treaties, as is well known, refer to neutrality.

The treaty of 1846, which the present treaty provides shall remain in full force as to the cities of Panama and Colon and elsewhere in Colombia, was a treaty of friendship entered into between the United States and Colombia in 1846. This treaty was entered into in contemplation of the construction of a canal across the Isthmus of Panama. The present treaty provides that we shall continue to guarantee the neutrality of the isthmus, in conformity with the provisions of article 35 of the treaty of 1846.

By article 35 of that treaty we agreed to do two things in particular. We guaranteed the neutrality of the isthmus, and we guaranteed the rights of sovereignty and property which Colombia has and possesses over said territory. The treaty of 1846 is still in force between the United States and Colombia. We are still bound by it, and there is no objection to our continuing to be bound by it under the present treaty.

As to the Hay-Pauncefote treaty, Article XVI of the treaty under consideration provides for the opening of the canal upon the terms provided for by section 1 of the Hay-Pauncefote treaty, and in conformity with all the stipulations of that treaty.

The provisions of the Hay-Pauncefote treaty are very familiar to Senators. It stipulated the Clayton-Bulwer treaty; it provided for the neutrality of the canal, and it contained certain rules governing such neutrality.

There is no objection that I can see in incorporating the Hay-Pauncefote treaty in the treaty before the Senate. That treaty is already a binding obligation upon us. We intend to observe it. We want a neutral canal. We want a canal that will be to the interest of the world to use and protect. The United States does not desire a canal for its own exclusive use.

In the discussion of the Hay-Pauncefote treaty it was well settled to the satisfaction of most Senators that there was nothing in that treaty which prevented our fortifying the canal if we so desired. There is not a word in this treaty that will prevent our fortifying and protecting this canal if an emergency arises which makes it necessary for us to do so.

Now, Mr. President, I desire to say a word about our guaranty of sovereignty of the Republic of Colombia.

Our guaranty is no greater than the guaranty which we gave her in the treaty of 1846. We are still bound by that treaty, and the reference to sovereignty of Colombia in this treaty is only a restatement of what we are already bound to acknowledge by a treaty made half a century ago.

As to the statement in reference to our intention not to increase our territory at the expense of any of our sister republics of Central or South America, but to strengthen them, and to promote and develop their prosperity and independence.

That statement is a mere restatement of a policy which is as old as the Government of the United States itself. It was to promote that policy that President Monroe promulgated the famous Monroe Doctrine.

Mr. President, the article about which there is some difference of opinion, as to the propriety of its remaining in the treaty, is the twenty-third article.

By that article Colombia agrees to provide the armed forces necessary for the protection of the canal, but if Colombia can not effectively do so them, with her consent, the United States shall employ such forces as may be necessary.

If it were not for the clause which follows, the provision I have read would be objectionable. But the twenty-third article continues:

Under exceptional circumstances, however, on account of unforeseen common danger to said canal, railways, or to the free and property of the persons employed upon the canal, railways, etc., the Government of the United States is authorized to act in the interest of such government without the necessity of obtaining the consent of Colombia, beforehand.

This provision removes the objection from the so-called joint protestants. The United States will determine what are exceptional circumstances and unforeseen or imminent danger. Those terms are susceptible of a very broad construction. I think I am safe in saying that, if it ever becomes necessary to fortify or protect the canal by armed forces, it will be a case of unforeseen or imminent danger, or an exceptional circumstance.

In addition to this, other articles in the treaty give us ample powers to protect the canal.

In addition to all this, there is no probability at all that Colombia desires to, or ever will, or ever will be able to protect the canal by armed forces. She is not able to do so, she cannot, and the United States, of course, will have to and will protect

the can be armed forces whenever it is necessary, and we will do it without any violation of the twenty-third article of the treaty of 1846.

And the suggestion in this connection: It must be remembered that the canal will be a neutral one. That was the purpose of the Clayton-Bulwer treaty; that was the purpose of the first Hay-Pauncefote treaty, and the neutrality feature was retained in the second Hay-Pauncefote treaty.

Now, Mr. President, a word as to Colombia's concessions under the treaty. Her concessions are not unimportant. She gives us a six-mile zone. She gives us the right to perpetually enter and operate and protect thereon a canal. By the twenty-third article of the treaty she renounces all her rights under any concessionary contract she has with Wyse, with the Panama Canal Company, and with the railroad company.

For these important concessions we pay Colombia in cash \$1,000,000 and at the end of nine years we commence paying her an annuity of \$250,000, which is not changed during the term of the present treaty, and this treaty is a perpetual one.

Mr. President, one word in conclusion. The suggestion has been made here that it is humiliating for this great country to yield in any degree to Colombia in the terms of the treaty. It has been suggested that Colombia is a small, weakly worthy of consideration. Whatever may be the relation to the strength of Colombia or to its weakness, the Government is too great, too honorable to take advantage of the weakness of sister republics in any international arrangement. Colombia is an independent country. It should be treated with the same consideration as the greatest nation in the world. It has been the well-wish of the United States to deal with the great and the small alike. The United States never has and never will treat more of a small, weak country than it would the strongest under the same circumstances.

In these last words to most unqualifiedly condemn the action that the United States should take advantage of, great or small, in our dealings with them, either in the construction of a canal or any other question.

Morgan closed the debate with a reiteration of the advantages of the Nicaragua route. Recalling that Panama had been settled upon by the committee of the Government, his final appeal was a plea for its adoption.

THE PANAMA TREATY

PRESIDENT ROOSEVELT

STAG, under the act of June 28, 1902, a treaty between the representatives of the Republic of Colombia and the Government of the United States was ratified by the Senate. This treaty was drawn up at the urgent solicitation of the people of Colombia. In drawing up this treaty every concession was made to the people and to the Government of Colombia. We are now just in dealing with them. Our generosity was not a question whether we had not gone too far in our interest at the expense of our own; for in our desire to pay all possible heed, not merely to the claims of the fancied rights of our weaker neighbor, but to the claims of our protection and forbearance, we have used all possible ways to her desires in drawing up the treaty. Nevertheless the Government of Colombia not only repudiated the treaty, but repudiated it in such manner as to make it evident by the time the Colombian Congress adjourned that the scantiest hope remained of ever getting a treaty from them. The Government of Colombia repudiated it, and yet when the Colombian Congress was called to vote on the treaty it was unanimous in its approval. It appears that the Government made any real effort to get the treaty.

After the adjournment of the Congress a revolution broke out in Panama. The people of Panama had long been discontented with the Republic of Colombia, and they had been so since the time of the conclusion of the treaty. It was to them a matter of vital concern. When it became known that the treaty was hopelessly lost, the people rose literally as one man. Not a shot was fired in Panama on the isthmus in the interest of the Colombian Government.

Not a life was lost in the accomplishment of the revolution. The Colombian troops stationed on the isthmus, and the Colombian troops stationed on the isthmus, had been unpaid, made common cause with the people of Panama, and with astonishing unanimity the new republic was proclaimed.

The duty of the United States in the premises was to act in strict accordance with the principles laid down by the Government of the United States. In 1823, when Cass and Seward, the United States gave notice to the Government of Colombia that no expeditionary force, the landing of which would mean chaos and destruction along the coast of the Republic, and of the proposed canal, and an interrup-

Mr. President, I leave this subject to take care of itself from this time forward. I will await a time to see whether or not there is a chance for the United States to accept that beautiful and inviting situation created in Nicaragua by the hand of nature, a location that is more convenient than any other place in the world for an isthmian canal; a healthy and fertile zone in a country of splendid agricultural, mineral, and forestry possibilities and resources, occupied by a quiet, gentle people, where the canal zone, from Greytown to Brito, would perhaps not include 3,000 inhabitants, and where, under the permissions given to us under the proposed treaties with Nicaragua and Costa Rica, we could admit or refuse the privilege of residence in that zone to any who might apply, a healthful and beautiful country, where Americans could gather with their industries and their trades in the very heart of the great equatorial belt that will pass around the world. We throw that all away. We throw away a canal for which we have spent nearly two millions in surveys, against which no breath of suspicion was ever raised by any survey or any commission of examination or by any engineer or explorer or traveler who has ever been there, which is absolutely free from all exceptions and objections. We cast it aside and plunge into the fever-laden morasses of Panama. Why, Mr. President, why? Because we are led or driven by some hidden impulse that there is no man in the Senate who is prepared to weigh or to measure, or to explain or account for.

The treaty was ratified by the Senate on March 18 by a vote of 73 to 5. Colombia, however, refused on her part to ratify the treaty, demanding a cash payment of \$15,500,000. The result was the secession of the State of Panama from the United States of Colombia, the recognition of its independence by the United States, and the formation by the United States of a treaty (Hay-Varilla) with her on the terms formerly offered to Colombia, but with amendments substantially the same as those offered by Senator Morgan to the Colombia treaty (Hay-Herran).

On December 7, 1903, in his third annual message to Congress, President Roosevelt presented an account of the fate of the Hay-Herran treaty, and of the consequent actions of the United States Government, together with a justification of these actions.

tion of transit as an inevitable consequence. The *de facto* Government of Panama was recognized, and the Government of Colombia was notified of our action.

The control, in the interest of the commerce and traffic of the whole civilized world, of the means of undisturbed transit across the Isthmus of Panama has become of transcendent importance to the United States. We have repeatedly exercised this control by intervening in the course of domestic dissension, and by protecting the territory from foreign invasion. In 1853 Mr. Everett assured the Peruvian minister that we should not hesitate to maintain the neutrality of the isthmus in the case of war between Peru and Colombia. In 1864 Colombia, which has always been vigilant to avail itself of its privileges conferred by the treaty, expressed its expectation that in the event of war between Peru and Spain the United States would carry into effect the guaranty of neutrality. There have been few administrations of the State Department in which this treaty has not, either by the one side or the other, been used as a basis of more or less important demands. It was said by Mr. Fish in 1871 that the Department of State had reason to believe that an attack upon Colombian sovereignty on the isthmus had, on several occasions, been averted by warning from this Government. In 1886, when Colombia was under the menace of hostilities from Italy in the Cerruti case, Mr. Bayard expressed the serious concern that the United States could not but feel that a European power should resort to force against a sister republic of this hemisphere, as to the sovereign and uninterrupted use of a part of whose territory we are guarantors under the solemn faith of a treaty.

History establishes beyond question: First, that the United States has for over half a century patiently and in good faith carried out its obligations under the treaty of 1846; second, that when for the first time it became possible for Colombia to do anything in requital of the services thus repeatedly rendered to it for fifty-seven years by the United States, the Colombian Government peremptorily and offensively refused thus to do its part, even though to do so would have been to its advantage and immeasurably to the advantage of the State of Panama, at that time under its jurisdiction; third, that throughout this period revolutions, riots and factional disturbances of every kind have occurred one after the other in almost uninterrupted succession, some of them lasting for months and even for years, while the central government was unable to put them down or to make peace with the rebels; fourth, that these disturbances,

instead of showing any sign of abating, have tended to grow more numerous and more serious in the immediate past; fifth, that the control of Colombia over the Isthmus of Panama could not be maintained without the armed intervention and assistance of the United States. In other words, the Government of Colombia, though wholly unable to maintain order on the Isthmus, has nevertheless declined to ratify a treaty the conclusion of which opened the only chance to secure its own stability and to guarantee permanent peace on, and the construction of a canal across, the Isthmus.

Under such circumstances the Government of the United States would have been guilty of folly and weakness, amounting in their sum to a crime against the nation, had it acted otherwise than it did when the revolution of November 3 last took place in Panama. This great enterprise of building the inter-oceanic canal can not be held up to gratify the whims, or out of respect to the governmental impotence, or to the even more sinister and evil political peculiarities, of people who, though they dwell afar off, yet against the wish of the actual dwellers on the isthmus, assert an unreal supremacy over the territory. The possession of a territory fraught with such peculiar capacities as the isthmus in question carries with it obligations to mankind. The course of events has shown that this canal can not be built by private enterprise, or by any other nation than our own; therefore it must be built by the United States.

Every effort has been made by the Government of the United States to persuade Colombia to follow a course which was essentially not only to our interests and to the interests of the world, but to the interests of Colombia itself. These efforts have failed; and Colombia, by her persistence in repulsing the advances that have been made, has forced us, for the sake of our own honor, and of the interest and well-being, not merely of our own people, but of the people of the Isthmus of Panama and the people of the civilized countries of the world, to take decisive steps to bring to an end a condition of affairs which had become intolerable. The new Republic of Panama immediately offered to negotiate a treaty with us. This treaty I herewith submit. By it our interests are better safeguarded than in the treaty with Colombia which was ratified by the Senate at its last session. It is better in its terms than the treaties offered to us by the Republics of Nicaragua and Costa Rica. At last the right to begin this great undertaking is made available. Panama has done her part. All that remains is for the American Congress to do its part, and forthwith this Re-

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possession upon the subject of the revolution in Panama. It wished to know:

Whether at the time of the ratification of the treaty Panama had successfully established its independence, had lawfully adopted a constitution, and had given authority to the persons with whom said treaty purports to have been made to negotiate and ratify the same;

Also, the population of said Republic of Panama at that time, its capacity for self-government, and the race and character of the persons composing it;

Also, whether the officials negotiating or ratifying the treaty on the part of Panama had any personal or private interest in or relation to the construction of a canal across the Isthmus of Panama;

Also, whether the constitution of the Republic of Colombia authorized the secession of Panama therefrom, and whether Colombia was prevented by the action of the United States or by any officer or force under the jurisdiction of the same from attempting to assert its authority or to prevent such secession, and what instructions, if any, had been given by the Government of the United States to such officers, whether civil, military, or naval, and whether if any action had been taken by such officers without special authority what action was so taken, and whether such action has been approved or disapproved by the Government of the United States;

Also, at what time information of any revolution or resistance to the Government of Colombia in Panama was received by the Government of the United States or any department thereof, and whether any information was received of any expected or intended revolution before it occurred, and the date of such information.

On December 17 Senator Hoar spoke to his resolution.

No man in this country desires more eagerly than I do—I doubt if there be a man living who desires so eagerly as I do—to support the Administration and to act with my Republican associates in this matter. I desire the building of the canal. It is one of the great landmarks, rarely found once in a century, in the progress of humanity, bringing nations together and making the whole world kin. I hope it is a laudable ambition—at any rate, it is my ambition—that this may be accomplished

public will enter upon the execution of a project colossal in its size and of well-nigh incalculable possibilities for the good of this country and the nations of mankind.

By the provisions of the treaty the United States guarantees and will maintain the independence of the Republic of Panama. There is granted to the United States in perpetuity the use, occupation, and control of a strip ten miles wide and extending three nautical miles into the sea at either terminal, with all lands lying outside of the zone necessary for the construction of the canal or for its auxiliary works, and with the islands in the Bay of Panama. The cities of Panama and Colon are not embraced in the canal zone, but the United States assumes their sanitation and, in case of need, the maintenance of order therein; the United States enjoys within the granted limits all the rights, power, and authority which it would possess were it the sovereign of the territory to the exclusion of the exercise of sovereign rights by the republic. All railway and canal property rights belonging to Panama and needed for the canal pass to the United States, including any property of the respective companies in the cities of Panama and Colon; the works, property, and personnel of the canal and railways are exempted from taxation as well in the cities of Panama and Colon as in the canal zone and its dependencies. Free immigration of the personnel and importation of supplies for the construction and operation of the canal are granted. Provision is made for the use of military force and the building of fortifications by the United States for the protection of the transit. In other details, particularly as to the acquisition of the interests of the new Panama Canal Company and the Panama Railway by the United States and the condemnation of private property for the uses of the canal, the stipulations of the Hay-Herran treaty are closely followed, while the compensation to be given for these enlarged grants remains the same, being ten millions of dollars payable on exchange of ratifications; and, beginning nine years from that date, an annual payment of \$250,000 during the life of the convention.

THE PANAMA REVOLUTION

SENATE, DECEMBER 9, 1903

On December 9, 1903, George F. Hoar (Massachusetts) offered a resolution in the Senate inquiring of the President for information which might be in his

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in my time by the party with which I have acted from my youth and by the Administration of my choice. Nothing can be more delightful to me than that it shall be accomplished by the President of whom I have supposed I had the right to speak as an honored and valued personal friend. It is a dear ambition, also, that my vote may be recorded in its favor. But let this great transaction be wrought in the great way which alone is worthy of it. Let it be brought to pass, if it may be, by the unanimous consent of all parties and the united action of all the people. If, unhappily, that be impossible, at least let it be without the taint or the suspicion of national dishonor.

Now, Mr. President, I do not care to inquire too scrupulously whether the President has waited long enough for his recognition of the *de facto* government in Panama. The question whether and when he shall recognize any government is left, in general, by the Constitution to his sole discretion, a discretion which must be binding upon all other departments.

What we want to know is this: Whether our Administration, knowing or expecting beforehand that a revolution was coming, so arranged matters that the revolution, whether peaceable or forcible, should be permitted to go on without interruption, and only took measures to stop the Republic of Colombia from preventing it. Did the President, or the Secretary of State, or any other department of our Government purposely prevent Colombia from anticipating and preventing a breach of the peace and a disturbance of the transit across the isthmus by sending her troops there before it happened, and so virtually let the revolution take place, and say to Colombia: "You shall take no precautions to stop it"? Did we, in substance, say to Colombia: "We will not allow you to prevent a revolution in your province of Panama by moving your forces there" before it broke out?

Now, it appears from the House documents that the uprising took place in the city of Panama at about 6 o'clock in the afternoon of the 3d of November, 1903.

The following order was sent to the Nashville on November 2 (Monday):

NAVY DEPARTMENT,
Washington, D. C., November 2, 1903.

Nashville (care American consul), Colon:

Maintain free and uninterrupted transit. If interruption threatened by armed force occupy the line of railroad. Prevent landing of any armed force with hostile intent, either government or insurgent, either at Colon, Porto Bello, or other point. Send copy of instructions to senior officer present at Panama upon arrival of Boston. Have sent copy of instructions and have telegraphed *Dixie* to proceed with all possible dispatch from

Kingston to Colon. Government force reported approaching the isthmus in vessels. Prevent their landing if in your judgment this would precipitate a conflict.

DARLING, Acting.

So it is clear that at least twenty-four hours, perhaps forty-eight hours, before the revolution broke out our Government had instructed its man-of-war to prevent the Government of Colombia from doing anything in anticipation of the revolution to prevent it. This message, as appears from the dispatch of November 3, Tuesday, had been sent on November 1, Sunday, three days before the revolution. November 3, at 8.45 p. m., before our Government had received any notice of the revolution, orders had been sent to the consul at Colon that the troops should not be allowed to proceed to Panama. The intended revolutionary movement had been known to a very few persons only at Colon up to 8 a. m. on the 4th of November. It was not known by the Government party in Colon, by the Conservative party, or by the Colombian forces at Colon when the dispatch received at 3.35 in the afternoon of November 4 was sent.

The Republic of Panama was recognized by the President on or before November 6. The precise date of that recognition is not given in the House documents.

Now, Mr. President, I want to know, I think the American people want to know, and have a right to know, whether this mighty policeman, instructed to keep the peace on that isthmus, seeing a man about to attack another, before he had struck his blow, manacled the arms of the man attacked, so that he could not defend himself, leaving his assailant free, and then instantly proceeded to secure from the assailant the pocketbook of the victim, on the ground that he was *de facto* the owner?

Mr. President, it may be said that it is almost an affront, certainly a great incivility, to ask such a question. It may be said that anybody who knows the President knows that he is incapable of intrigue or indirection or artifice. And there is very great force in that suggestion. From all I have ever seen or known Mr. Roosevelt is the last man living who would be capable of such a thing as that. His faults, if he have them, I have always expected would come from a brave and honest and perhaps somewhat impetuous nature that would ever seek to attain great objects in a great way. But the President himself has suggested and invited the desire for this explanation. He has thought it due to himself that the American people should know that nothing of the kind could be imputed to him. He has repelled with scorn the suggestion of such an imputation.

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Colombia was a friendly nation. She owned that territory. We have admitted all that by receiving a minister from her, and sending a minister to her, and negotiating with her for a purchase of her rights.

It is said that she negotiated a treaty with us by her executive, and then that her executive took no steps to persuade her congress to ratify it. Indeed, she did exactly what we did with Denmark thirty years ago, in the case of St. Thomas.

Is not this an act of war upon a friendly though weak nation as it stands in these imperfect documents? Suppose, under the Pauncefote treaty, where Great Britain guarantees the neutrality of the canal, she were to send an armed force to keep us off when we were sending our troops in a ship to do the same thing? Should not we repeat to his lordship at the foreign office Mr. Adams' simple and sublime sentence: "It is superfluous to observe to your lordship that this is war"?

One thing more. I do not observe that any country on this continent has yet recognized the Republic of Panama. Russia and Germany and Austria and China have hastened to recognize it. France, whose people have a strong pecuniary interest in the sale of the old canal property, has joined them, and, I believe, three or four of the northern European states, but, except France, no republic from the Gulf to Cape Horn. The nations so far stand aloof. Do you think it well to proclaim to the sixteen republics at the south that, if they are weak, or even if they are liable to frequent revolution, we will deal with them hereafter, if we fancy it for our interest, as we are charged with having dealt with Colombia?

Are we willing to say that if this revolution had not happened we meant to take that strip of territory by the strong hand and to pay Colombia what we should think proper damages? Do you claim that every South American nation holds its property subject to our right of eminent domain?

We have decided that the Panama route is the best route. But there are a good many people who think the Nicaragua route better and that we must yet go there. We all thought so three years ago. If that turn out to be true, are we going to take that in the same way? Is this doctrine of eminent domain, of which we have heard so much, likely to help us get the coveted markets of South America or to make them like us better as customers or producers? I think, Mr. President, that we ought to have, and that we ought to have now, and if this resolution be adopted we shall have, the authoritative declaration by the President of the United States and Congress which will compose and

He has taken the uncommon step of communicating to the press extracts from a message which he had prepared to send to Congress, written before the revolution occurred in Panama, in order that the American people might know that it was impossible that he had expected it and still more impossible that he had done anything to bring it about. I did not think myself that such an assurance to the public was at all necessary. If the President had sent for any member of the Senate and had proposed to show him that message, he would, I think, have been told there was no occasion for him to seek to prove by any evidence beyond that of his own character that he had had nothing to do with any indirection or artifice. But he decided otherwise. And, having decided otherwise, I suppose he will like to have the imperfect evidence afforded by the communication to the House of Representatives and by the message at the beginning of the present session made complete, and whatever is lacking to a complete answer to the charges which have been made in the press supplied.

Now, Mr. President, as the matter stands on the information given to the House in Document No. 8 the shores of Colombia were patrolled by armed vessels of the United States in order that that government—the government of the country—should not take any steps to prevent it.

It does not appear in that document where or from whom our Administration secured the information that led to these orders.

According to the documents sent to the House by the President the first tiding of any revolution that came either from Panama or Colon, or any expected revolution, came November 3, the day the revolution happened. As the statement is now left in the official communication to Congress, this revolution was known at Washington before it was known on the isthmus. All our Government, by its own statement, seems to have done in its anxiety that transit should not be disturbed was not to take measures that violence should not occur, but to take measures that violence should not be prevented. It performed its duty of keeping uninterrupted the transit across the isthmus only by interrupting it itself—interrupting it itself in its most sacred and rightful use, that of the lawful government of the country moving its own troops over its own territory, that it might prevent a breach of its peace and an unlawful revolution against its authority.

Mr. President, is there any doubt that, as now standing unexplained, this was an act of war?

forever put an end to these fears, whether they exist at home or abroad.

If this be our policy and it go on, if any disaster come to the great Republic—which Heaven avert—and our country shall perish, she will be mourned only by despots, and her overthrow will be hailed with exultation and triumph by every people in the Western Hemisphere from the Arctic Ocean to Cape Horn.

Mr. President, the question of one revolution more or less in a little South American republic may seem of infinitesimal importance. The question whether we wait five minutes, or five days, or five years before we recognize a new government is not of great importance, if that be all. Even then, if this five-minute act of revolution be absolutely contemporaneous with our getting for ourselves the larger part of the country against whom the revolution takes place, it seems to me to be due to our own character to walk circumspectly. But we are setting a great precedent in international law, and declaring by an example far more impressive than any precept what rule of conduct we propose to observe in the future, toward sixteen South American republics who are all existing to-day under like conditions. We are saying to every despotic country in Europe that, so far as we are concerned, there will never be any objection, any active opposition, or even any moral condemnation on our part if they do the same thing when they shall see fit.

Now, I do not undertake to say—I do not say—that there has been anything, so far, on the part of our Government liable to any just criticism. But the American people and the Senate, as yet, know only part of the story. They are, in my judgment, entitled to know the whole, and to know it now, before action be taken upon the Panama treaty.

We are entitled to know it in the way prescribed by the established custom of the Government for a century—by an official communication from the Executive to one or the other House of Congress, and not to get it through some individual Senator, whose information may be colored, unconsciously, by his own wishes, or by what he fancies to be the wishes of anybody else, still less by the unofficial public utterances of the representatives of foreign states, or even of officials in our own executive departments.

Joseph B. Foraker (Ohio) opposed the resolution as untimely.

Mr. President, as I read these telegrams in the light of our duty and obligation to Panama with respect to the transit across the isthmus, I see no occasion to draw therefrom any inference except only that the President of the United States was alert to do, in a patriotic way, his duty as the President of the United States.

The President has stated that there was no connivance and no intrigue, and yet the Senator from Massachusetts, reading these telegrams, seems to have an idea that the President shall submit proof to him that he was telling the truth when he made the statement that he had not connived and had not intrigued. Now, the situation in Panama was one as to which there was common knowledge to all informed newspaper-reading people throughout this country.

The very moment we sent that treaty to the United States of Colombia for action there, for them to ratify it, there was evidenced a disposition unfriendly to it, a disposition that grew stronger and stronger in its manifestation, until, finally, the rejection came.

What did that mean to Panama? Take the map and look at it—a mere isthmus, as it is properly called. Colombia situated in South America; Panama as disconnected as a state could possible be, both by water and by the nature of the land that intervened. To that little department of Panama the construction of the canal at that point meant the most important advantage to her that you could possibly conceive. For that canal not to be constructed there, but to be constructed at some other place, meant the most positive disadvantage to her.

She was intensely in favor, therefore, of this canal being constructed at that place, and in favor, therefore, of the ratification of that treaty. But, despite all she could do, the treaty was rejected. At once it became known through the newspapers—not by any agent sent here or sent elsewhere, but as common knowledge, reported by the Associated Press and otherwise—that the people of Panama were in a state of discontent and that they would not submit to such disregard of their interests by the government under which they were then living. It became at once known, in other words, that she was proposing to secede and set up an independent government for herself.

That was published everywhere. No agent came to the President of the United States. The President of the United States sent no agent to Panama. It was not necessary. Panama was acting in her own interest. She was exercising her right to object to the action of her government, and, her government

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cause of the difference in time. France had no constitution, but it was a great, mighty people, forty millions or more, who had set up a republic dedicated to freedom and to human liberty, and this great Republic at once responded with recognition.

NELSON W. ALDRICH [R. I.].—We did not even ask France, as I remember, whether the government which had been overthrown consented.

SENATOR FORAKER.—No.

Now, in 1873 they established a republic in Spain. There was no delay. Later, when the Emperor of Brazil was deposed, the republic that followed him was instantly recognized, and other examples might be cited.

Mr. President, there was no reason in the case of France or Spain or Brazil for precipitate or hasty action; we had no special duties there; but in the case of the Republic of Panama it was different. What are the conditions, according to international law, that are sufficient to justify us in instantly recognizing a new government, as we did in the case of France, Spain, and Brazil?

The only condition necessary—and it does not make any difference, in the language of the Senator from Massachusetts, whether it be brought about in five minutes or five days or five months—is that the new government shall be the sole authority throughout the region over which it undertakes to govern, and that there is no contention and no disputed authority. It is not necessary to go that far. But when those conditions exist to that extent, then, according to all international canons of law, a recognition is in order at the option of the recognizing government.

In the case of Panama it was not only true that the Republic of Panama was the only authority there of a governmental nature, that that authority was supreme throughout her borders, but it was also true that there was not even a policeman representing Colombia within the department of Panama. They had a little army there when the trouble commenced—400 men, with some generals and colonels—and they were all quietly picked up, without the shedding of one drop of blood, and put on a transport and sent back to their own home. That completed the revolution.

But, Mr. President, there was a necessity in the case of Panama which required prompt action on our part, as there was no necessity in the other cases to which I have referred. These conditions existing, we would have been without excuse if we had halted in recognition. The necessities to which I have

persisting in wronging her, she had a right, if she saw fit, to go into rebellion.

In other words, weeks before she declared her independence it became known that she would take that step—not officially, but it became known to every man who studied the situation and considered what human nature would do under such circumstances. The clouds were gathering. Should the United States, through its Administration at Washington, be unmindful of that fact? Not at all. It was our duty to be watchful with respect to it under any circumstances, but particularly so in view of our obligations to preserve that transit free from interruption.

Ever since 1846, when the treaty between this Government and New Granada, as that country was then called, was entered into, we have been under that obligation. Time and again we have landed our marines to preserve order and to protect that transit from interruption and embarrassment. Repeatedly we have done that at the request of Colombia; we have done it in a number of instances on our own notion. The President of the United States, seeing the storm coming, seeing the action that was threatened, remembering his obligation to preserve peace and order and protect that transit from interruption, did only his duty in taking all preliminary necessary steps to preserve order when such a contingency should arise.

Mr. President, as is suggested to me, suppose he had not done it; suppose the rebellion had come; that secession had been accomplished; that war had ensued, and all the results that accompany war had followed, what would have been the criticism then of our friends on the other side? It would have been a criticism, not that the President had acted precipitately, not that he had acted without cause, but that he had not acted at all; that he had lost the canal after the United States had expressed her preference for it, and after the people of the whole country, without regard to party and without regard to section, had demanded it.

We are given the date when the secession occurred; we are given the date when the recognition was accorded, and we are asked to believe, if we agree with the Senator from Massachusetts, that there was inordinate haste, indecent haste, in granting that recognition.

What are the facts? What are the precedents, first? In 1871, when the Republic of France was established, we recognized it immediately. The date of our cablegram instructing Minister Washburne to recognize the Republic of France was dated the next day. That apparent delay of a day was only be-

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referred are these: Under the treaty of 1846 we had a duty at that time incumbent upon us, as it has been ever since the ratification of that treaty down to the present moment, to preserve that transit free from interruption.

War being threatened, a condition of things being threatened that promised an interruption, it was the duty of this Government to be prepared to prevent it; and, instead of criticising President Roosevelt for the action he took, he ought to receive, and he will receive, from the American people their unqualified approbation for that which he did in this respect, because that which he did was but to redeem the promises and obligations of our Government, just as other Administrations have done the same thing over and over again.

We do not have to wait until there is actual war. We do not have to wait until there is a hostile force landed and engagements actually commence and blood is being actually shed. It is much better, Mr. President, foreseeing the situation of which all have common knowledge, to take effective steps to prevent these conditions that would have followed but for our intervention.

Mr. President, no Senator on this side, I am sure, has the slightest objection to all possible information being given with respect to this whole transaction; no Senator on this side has the slightest objection to all the light being had on this transaction that can be shed on it, but there is a time and there is a place for Senators to discuss propositions of this character. Here in this open session is not the time nor the place. I have undertaken to say enough only in answer to the Senator from Massachusetts to show that the President in this matter did not act hastily; that he did not act without precedent or without the warrant and authority of international law, and that he did not act contrary to, but strictly in conformity with, his official obligation, charged as he is, as the head of this nation, with the faithful execution of all our treaty obligations.

I have no hesitancy in saying, Mr. President, that I have the profound conviction that, when this matter is thoroughly understood, even our Democratic friends will hesitate to criticise him. Certainly they will hesitate, at any rate, when they make their nonpartisan speeches, of which we have heard so much, and then give their nonpartisan votes.

On December 18 John T. Morgan (Alabama) submitted several resolutions, of which the following sum up the whole:

Resolved: That the President has no lawful right or power, without the consent of Congress, and under the conditions that exist in Panama, to use the military and naval forces of the United States to prevent Colombia from enforcing her claim to the proper exercise of her sovereignty and to execute her laws in the department of Panama by any form of coercion that is consistent with the laws of nations and is not in conflict with any right of the United States.

Resolved: That the intervention by the President is contrary to the law of neutrality enacted by the Congress of the United States, and is contrary to the laws of nations.



THE MAN BEHIND THE EGG
By Cralk, in the New York "Times"

Edmund W. Pettus [Ala.] supported the resolutions.

Panama, as we are informed by the Administration, is an "independent republic." If that is a correct statement, the serious question for our consideration is: How, and by what agencies, did Panama become an independent nation?

Was the new state born under and according to the law of nations, or was it unlawfully and "untimely ripped" from its mother's womb? And, if this new nation was so unlawfully and untimely ripped, was the honor of our country neglected or tarnished by this unlawful birth?

Our country is now a national giant. God forbid that this Republic should ever be too great to earnestly and diligently guard and preserve the honor of our people.

I desire first to call the attention of the Senate to the general duties of one nation to another. Mr. Vattel lays it down that—

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General Jackson made that statement, although the battle of San Jacinto had been fought, and no Mexican soldier had put his foot on that ground for six or eight months.

I will read another paragraph from that same message of General Jackson. He said:

The acknowledgment of a new state as independent and entitled to a place in the family of nations is at all times an act of great delicacy and responsibility, but more especially so when such State has forcibly separated itself from another of which it had formed an integral part and which still claims dominion over it. A premature recognition under these circumstances, if not looked upon as justifiable cause of war, is always liable to be regarded as a proof of an unfriendly spirit to one of the contending parties.

Yes, Mr. President, the honor of the nation is worth more than the property of the nation.

Mr. President, I know there are those whose logic is so sharpened that they can prove any proposition in law necessary to sustain the Administration.

In reference to this particular subject there was a claim asserted based on the treaty of 1846 with New Granada. I will call the attention of the Senate to a few matters in reference to that, though I must say that no human being can strengthen the argument that was made by the eminent Senator from Virginia [John W. Daniel] on yesterday. He demonstrated to an almost mathematical certainty that this claim based on that treaty was a bald pretence.

Mr. Seward, Mr. Fish, Mr. Evarts, and Mr. Blaine, each a great Republican statesman and each speaking as Secretary of State for our Government, denied that our treaty of 1846 with New Granada could be so construed as to confer on the United States the power or bind our country to the duty of taking part in a civil war on the isthmus.

Mr. President, it is a bald pretence that Colombia has acted in any other way in reference to the treaty than she had a right to act. People may get mad because they can not make an advantageous contract. I think myself the great Republic of Colombia made a mistake on the money question, but she had a right to make the mistake, and the United States had no right to complain of Colombia. Its Congress had never promised to ratify any treaty, and Congress was the sole power which could ratify.

Mr. President, the particular point on which I wish to conclude is this: The United States is a wonderful power—won-

All nations are therefore under a strict obligation to cultivate justice toward each other, to observe it scrupulously, and carefully to abstain from everything that may violate it. Each ought to render to the others what belongs to them, to respect their rights, and to leave them in the peaceable enjoyment of them. (Vattel's Law of Nations, Cap. V, p. 160.)

Mr. President, I shall not now pause to comment on this great principle of moral and international law. I call it the law of common honesty, and every nation and every man ought to be bound by it.

I next call your attention to the circumstances under which, under the law of nations, one nation may acknowledge the independence of another nation—a newborn nation. That law has been settled for many years. It was settled, in fact, or considered as settled, by the law writers before this nation was born.

But the United States more than any other country on earth has, by its acts and by the declarations of its statesmen, enforced the general proposition which I shall now read from Chancellor Kent, the great Blackstone of American law. This great writer lays it down in a short sentence. He says:

Recognition of the independence of a revolted state is only lawful when such independence is *de facto* established. (1 Kent's Commentaries, p. 25, note 1.)

My God, what a commentary on what we have been doing down in Panama! "Established." The meaning of "established" is not left by these great statesmen and writers to any sort of construction; it can not be frittered away by the logic of a man who brings his great powers of learning and logic to defend an indefensible act.

Mr. President, in considering this subject of the preservation of the honor of the country, that honor ought to be so guarded as not to be made liable to suspicion. We have had heretofore great interest in this question of recognizing the independence of another nation. In the case of Texas we had an interest in it directly, a national interest that Texas should be an independent state because we intended to have Texas as a part of the United States.

In a special message in reference to Texas General Jackson says:

It is scarcely to be imagined that a question of this character could be presented in relation to which it would be more difficult for the United States to avoid exciting the suspicion and jealousy of the other powers and maintain their established character for fair and impartial dealing. But on this, as on every trying occasion, safety is to be found in a rigid adherence to principle.

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derful; perhaps the strongest nation, taking it in all its parts, that ever existed on earth.

Now, have we gotten to be so great, has all this power been intrusted to us by our Master that we should abuse it like a bully? I fear we are doing it. I fear we have got too large to be just, and the people of the country fear it. Whenever this nation gets too large to be just, it will be too large to be respected by its own citizens.

Mr. President, there is one view of this subject to which attention ought to be called. I am not disputing, I do not contend in anything I have said, that the Government of the United States can not declare war, can not take part in a war that is already originated. But whoever heard that the President of the United States could make war without the authority of Congress?

War is being made, according to the President's own declaration. He is making war on the Republic of Colombia without any authority from Congress, both by the navy and the army, and for the purpose of securing that 10 miles of land through that country. God forbid that Congress or the people of the United States either should ever approve such a war!

On January 4, 1904, the President sent to Congress a special message relating his action in regard to Panama, and justifying it.

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PRESIDENT ROOSEVELT

The President declared that under the Hay-Pauncefote treaty the United States had assumed the position of guarantor of the building of the canal and of its peaceful use by all nations.

The enterprise was recognized as responding to an international need; and it would be the veriest travesty on right and justice to treat the governments in possession of the isthmus as having the right, in the language of Mr. Cass, "to close the gates of intercourse on the great highways of the world, and to justify the act by the pretension that these avenues of trade and travel belong to them and that they choose to shut them."

It is plain that no nation could construct and guarantee the neutrality of the canal with a less degree of control than was

stipulated for in the Hay-Herran treaty. A refusal to grant such degree of control was necessarily a refusal to make any practicable treaty at all. Such refusal, therefore, squarely raised the question whether Colombia was entitled to bar the transit of the world's traffic across the isthmus.

That the canal itself was eagerly demanded by the people of the locality through which it was to pass, and that the people of this locality no less eagerly longed for its construction under American control, are shown by the unanimity of action in the new Panama Republic. Furthermore, Colombia, after having rejected the treaty in spite of our protests and warnings when it was in her power to accept it, has since shown the utmost eagerness to accept the same treaty if only the *status quo* could be restored.

I pass by the question as to what assurance we have that they would now keep their pledge and not again refuse to ratify the treaty if they had the power; for, of course, I will not for one moment discuss the possibility of the United States committing an act of such baseness as to abandon the new Republic of Panama.

Although, as the months went by, it became increasingly improbable that the Colombian Congress would ratify the treaty or take steps which would be equivalent thereto, yet all chance for such action on their part did not vanish until the Congress closed at the end of October; and within three days thereafter the revolution in Panama had broken out. Panama became an independent state, and the control of the territory necessary for building the canal then became obtainable. The condition under which alone we could have gone to Nicaragua thereby became impossible of fulfillment. If the pending treaty with Panama should not be ratified by the Senate this would not alter the fact that we could not go to Nicaragua. The Congress has decided the route, and there is no alternative under existing legislation.

It was the opinion of eminent international jurists that, in view of the fact that the great design of our guarantee under the treaty of 1846 was to dedicate the isthmus to the purposes of interoceanic transit; and, above all, to secure the construction of an interoceanic canal, Colombia could not, under existing conditions, refuse to enter into a proper arrangement with the United States to that end without violating the spirit and substantially repudiating the obligations of a treaty the full benefits of which she had enjoyed for over fifty years. My intention was to consult the Congress as to whether, under such circumstances, it

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solely or even primarily for the purpose of enabling that remnant of the original Republic of Colombia, then resolved into the states of New Granada, Venezuela, and Ecuador, to continue from Bogota to rule over the Isthmus of Panama, is a conception that would in itself be incredible, even if the contrary did not clearly appear. It is true that since the treaty was made the United States has again and again been obliged forcibly to intervene for the preservation of order and the maintenance of



THE NEWS REACHES BOGOTA
By W. A. Rogers, in the New York "Herald"

an open transit, and that this intervention has usually operated to the advantage of the titular government of Colombia, but it is equally true that the United States in intervening, with or without Colombia's consent, for the protection of the transit, has disclaimed any duty to defend the Colombian Government against domestic insurrection or against the erection of an independent government on the Isthmus of Panama. The attacks against which the United States engaged to protect New Granadian sovereignty were those of foreign powers; but this engagement was only a means to the accomplishment of a yet more important end. The great design of the article was to assure the dedication of the isthmus to the purposes of free and unobstructed interoceanic transit, the consummation of which would be found in an interoceanic canal.

would not be proper to announce that the canal was to be dug forthwith; that we would give the terms that we had offered and no others; and that, if such terms were not agreed to, we would enter into an arrangement with Panama direct, or take what other steps were needful in order to begin the enterprise.

Fortunately, said the President, there was no necessity for this course. The imminent revolution broke out in Panama and solved the problem.

I hesitate to refer to the injurious insinuations which have been made of complicity by this Government in the revolutionary movement in Panama. They are as destitute of foundation as of propriety. The only excuse for my mentioning them is the fear lest unthinking persons might mistake for acquiescence the silence of mere self-respect.

By the unanimous action of its people, without the firing of a shot—with a unanimity hardly before recorded in any similar case—the people of Panama declared themselves an independent republic. Their recognition by this Government was based upon a state of facts in no way dependent for its justification upon our action in ordinary cases. I have not denied, nor do I wish to deny, either the validity or the propriety of the general rule that a new state should not be recognized as independent till it has shown its ability to maintain its independence. This rule is derived from the principle of nonintervention, and, as a corollary of that principle, has generally been observed by the United States. But, like the principle from which it is deduced, the rule is subject to exceptions; and there are, in my opinion, clear and imperative reasons why a departure from it was justified and even required in the present instance. These reasons embrace: first, our treaty rights; second, our national interests and safety; and, third, the interests of collective civilization.

By the treaty of 1846 the United States secured the right to a free and open transit across the Isthmus of Panama, and to that end agreed to guarantee to New Granada her rights of sovereignty and property over that territory. This article is sometimes discussed as if the latter guarantee constituted its sole object and bound the United States to protect the sovereignty of New Granada against domestic revolution. Nothing, however, could be more erroneous than this supposition. That our wise and patriotic ancestors, with all their dread of entangling alliances, would have entered into a treaty with New Granada

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By a telegram from Mr. Beaupré, our minister at Bogota, of the 7th of November last, this Government was asked whether it would take action "to maintain Colombian right and sovereignty on the isthmus in accordance with article 35 [of] the treaty of 1846" in case the Colombian Government should be "entirely unable to suppress the secession movement there." Here was a direct solicitation to the United States to intervene for the purpose of suppressing, contrary to the treaty of 1846 as this Government has uniformly construed it, a new revolt against Colombia's authority brought about by her own refusal to permit the fulfillment of the great design for which that treaty was made. It was under these circumstances that the United States, instead of using its forces to destroy those who sought to make the engagements of the treaty a reality, recognized them as the proper custodians of the sovereignty of the isthmus.

This recognition was, in the second place, further justified by the highest considerations of our national interests and safety. In all the range of our international relations I do not hesitate to affirm that there is nothing of greater or more pressing importance than the construction of an interoceanic canal. Long acknowledged to be essential to our commercial development, it has become, as the result of the recent extension of our territorial dominion, more than ever essential to our national self-defence. In the light of our present situation, the establishment of easy and speedy communication by sea between the Atlantic and the Pacific presents itself not simply as something to be desired, but as an object to be positively and promptly attained. Reasons of convenience have been superseded by reasons of vital necessity, which do not admit of indefinite delays.

To such delays the rejection by Colombia of the Hay-Herran treaty directly exposed us. Colombia proposed to us to wait until, by the enforcement of a forfeiture repugnant to the ideas of justice which obtain in every civilized nation, the property and rights of the New Panama Canal Company could be confiscated.

That the attempt to carry out this scheme would have brought Colombia into conflict with the Government of France can not be doubted; nor could the United States have counted upon immunity from the consequences of the attempt, even apart from the indefinite delays to which the construction of the canal was to be subjected. On the first appearance of danger to Colombia this Government would have been summoned to interpose, in

order to give effect to the guarantees of the treaty of 1846; and all this in support of a plan which, while characterized in its first stage by the wanton disregard of our own highest interests, was fitly to end in further injury to the citizens of a friendly nation, whose enormous losses in their generous efforts to pierce the isthmus have become a matter of history.

In the third place, I confidently maintain that the recognition of the Republic of Panama was an act justified by the interests of collective civilization. If ever a government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal. Since our purpose to build the canal was definitely announced there have come from all quarters assurances of approval and encouragement, in which even Colombia herself at one time participated; and to general assurances were added specific acts and declarations. In order that no obstacle might stand in our way, Great Britain renounced important rights under the Clayton-Bulwer treaty and agreed to its abrogation, receiving in return nothing but our honorable pledge to build the canal and protect it as an open highway.

In my opinion, no disinterested and fair-minded observer acquainted with the circumstances can fail to feel that Panama had the amplest justification for separation from Colombia under the conditions existing, and, moreover, that its action was in the highest degree beneficial to the interests of the entire civilized world by securing the immediate opportunity for the building of the interoceanic canal. By our prompt and decisive action not only have our interests and those of the world at large been conserved, but we have forestalled complications which were likely to be fruitful in loss to ourselves and in bloodshed and suffering of the people of the isthmus.

Instead of using our forces, as we were invited by Colombia to do, for the twofold purpose of defeating our own rights and interests and the interests of the civilized world, and of compelling the submission of the people of the isthmus to those whom they regarded as oppressors, we shall, as in duty bound, keep the transit open and prevent its invasion. Meanwhile, the only question now before us is that of the ratification of the treaty. For it is to be remembered that a failure to ratify the treaty will not undo what has been done, will not restore Panama to Colombia, and will not alter our obligation to keep the transit open across the isthmus and to prevent any outside power from menacing this transit.

CHAPTER XI

PANAMA CANAL FORTIFICATIONS AND TOLLS

Hernando D. Money [Miss.] Introduces in the Senate Resolution to Fortify the Panama Canal—President Taft Speaks in Favor of Fortification—Debate in the House on the Subject: in Favor, Swager Sherley [Ky.]; Opposed, James A. Tawney [Minn.], General J. Warren Keifer [Q.]—William C. Adamson [Ga.] Reports in the House Bill of Majority of Committee on Interstate and Foreign Commerce, Providing Equal Tolls for Ships of All Nationalities; Joseph R. Knowland [Cal.] Makes Minority Report Exempting American Coastwise Ships from Tolls! Minority Report Adopted—Senator James A. Reed [Mo.] Offers Amendment to Bill Forbidding Use of the Canal to Ships Controlled by Illegal Trusts; Carried—Jonathan Bourne [Ore.] Offers Amendment Forbidding Use of the Canal to Ships Controlled by Railroads with Which They Would Otherwise Compete; Carried—Bill Is Enacted.

AS the Panama Canal neared completion the sentiment in the United States strengthened that the Government should assert proprietary rights in the great waterway which it was constructing, and establish guaranties of the same in the form of fortifications and discriminations in tolls in favor of American ships.

On January 19, 1911, Hernando D. Money (Mississippi) introduced in the Senate the following resolution:

Resolved, That it is the sense of the Senate that the Panama Canal should be fortified.

Two days thereafter (January 21, 1911) President Taft, at a dinner of the Pennsylvania Society in New York City, spoke upon the subject as follows:

FORTIFICATION OF THE PANAMA CANAL

PRESIDENT TAFT

I am glad to be here and am glad to know that so much of the energy, the enterprise, and the intelligence of New York has

The Senate ratified the treaty with Panama on February 23, 1904, by a vote of 66 to 14. It went into effect on February 26.



NOW WATCH THE DIRT FLY!
By "Scor," in the New York "Globe"

been contributed by the sons of William Penn. William Penn was in favor of peace. So, too, are the men of Pennsylvania. But I assume that they are practical men who do not lose sight of facts and existing conditions in an ecstasy of hope and Utopian enthusiasm.

I am going to invite your attention to the question now pending in Congress as to whether the Panama Canal ought to be fortified. I cannot think that any careful person will read the record of historical facts, treaties, and acts of Congress, and diplomatic negotiations without conceding the full right of the United States to fortify the canal. But memories are short, records are not always at hand, and, without in the slightest degree conceding that the existence of the full right of the United States to fortify her own property on the isthmus is in the slightest doubt, I venture, before considering the question of the policy of fortifying the canal, to refer to the history which makes the right incontestable.

In 1850 we made the Clayton-Bulwer treaty with England, which contemplated a canal built by somebody other than the contracting parties and probably by private enterprise across Central America or the Isthmus of Panama. By that treaty we agreed with England that we would neither of us own any part of the land in which the canal was to be built, and we would neither of us fortify it, and we would unite together in guaranteeing its neutrality and would invite the rest of the nations to become parties to the agreement. The canal was not built under that treaty. The French attempted it and failed. We had a Spanish war. The cruise of the *Oregon* of 12,000 miles along the seacoast of two continents, from San Francisco to Cuba, at a time when the seat of war was in the West Indies fastened the attention of the American people upon the absolute necessity for a canal as a military instrument for doubling the efficiency of our navy and for preventing a division of our forces of defence which might in the future subject us to humiliating defeat. This lesson brought about the effort to modify the Clayton-Bulwer treaty for the very purpose of securing the right on the part of the United States to own the land through which the canal was to be built, to construct the canal itself, and to regain the power to fortify the canal which it had parted with in the treaty of 1850 under other conditions. The correspondence between Lord Lansdowne and Mr. Hay, as well as Mr. Hay's statement to the Senate in transmitting the treaty which was finally ratified, show beyond peradventure that it was recognized by both parties to that treaty, first, that

the canal to be built should be one to be built by the United States, to be owned by the United States, to be managed by the United States, and that the neutrality of the canal which was to be maintained, was to be maintained by the United States; second, that nothing in the treaty would prevent the United States from fortifying the canal, and that, in case of war between the United States and England or any other country, nothing in the treaty would prevent the United States from closing the canal to the shipping of an enemy. In the absence of treaty restriction, of course, these rights inhere in the sovereignty of the United States and the control of its own. It is perfectly palpable that this was insisted upon by the Senate, for the reason that one of the main motives in the construction of the canal was the extension of the coast line of the United States through the canal and the use of the canal in time of war as an instrument of defence. The guaranty of neutrality in the treaty is subject, and necessarily subject, to this construction.

The purpose and assertion of the right of the people of the United States to fortify the canal are shown again in the passage of the Spooner Act in 1902 directing the President to build the canal and to make proper defences. The treaty with Panama reaffirms the treaty with England, made in 1900, and expressly gives to the United States the power of fortification. Now, then, can anyone dispute the right of the United States to fortify the canal when the English treaty was amended for the very purpose of regaining it, when it is expressly given in the treaty made with Panama that granted us the land on which to build the canal, and when not a single foreign nation—including in this England, who has made a treaty with us on the subject—has ever seen fit to suggest a lack of power to do that which an act of Congress nine years old directed the President to do, and on the faith of which \$500,000,000 are being expended?

The right of the United States to fortify the canal and to close it against the use of an enemy in time of war being established, what should be its policy? We built the canal to help us defend the country; not to help an enemy to attack it. Even if a certain and practical neutralization of the canal by agreement of all nations could be secured to us when engaged in war, an enemy could then use the canal for transit to attack us in both oceans as we propose to use it to defend ourselves. After expending \$500,000,000 thus to make our national defence easier, are we to surrender half the military value of the canal by giving the benefit of it to a nation seeking to destroy us? It seems

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canal would not exceed half a million dollars—an annual insurance rate after first cost of a tenth of 1 per cent.

The case of the Suez Canal furnishes no analogy whatever. In the first place, the Suez Canal is nothing but a ditch in a desert, incapable of destruction, and even when obstructed it can be cleared within a very short time. The Panama Canal, by the destruction of the gate locks, could be put out of commission for two years, and the whole commerce of the world made to suffer therefrom.

Again, the land through which the Suez Canal runs is not in the jurisdiction of England or of any one of the five great powers. Many nations partake in the ownership of the canal, and it is not within the control of any single nation. The circumstances under which the Panama Canal has been building, the ownership of the strip, and one of the main purposes for which it was constructed are very different and make it exactly as if it were a canal cut through the narrow part of Florida. It is on American soil and under American control, and it needs our fortifications for national defence just as much as the city of New York needs fortifications, and there is the additional reason that we ought to have them in order to perform our international obligations.

I yield to no one in my love of peace, in my hatred of war, and in my earnest desire to avoid war. I believe that we have made great strides toward peace within the last decade. No one that I know of goes further in favor of settling international controversies by arbitration than I do and, if I have my way and am able to secure the assent of other powers, I shall submit to the Senate arbitration treaties broader in their terms than any that body has heretofore ratified, and broader than any that now exist between the nations. In laying down my office, I could leave no greater claim to the gratitude of my countrymen than to have secured such treaties. But I can not permit myself, in the enthusiastic desire to secure universal peace, to bind myself to the possibilities of war. We have not reached the time when we can count on the settlement of all international controversies by the arbitration of a tribunal.

I welcome most highly the rapidly increasing ranks of the advocates of peace. They help to form a public opinion of the world that is, with appreciable progress, forcing nations to a settlement of quarrels by negotiation or peace tribunal. When adjudication by arbitral court shall be accepted, the motive for armament will disappear. But we can not hope to bring about such a condition for decades. Meantime, we must face the facts

to me that the very statement of the proposition carries its refutation.

But it is said that we ought to defend the canal by our navy. I am not a strategist; I am not a military or a naval expert; but it seems to me as plain as that one and one are two that a navy is for the purpose of defence through offence, for the purpose of protection by attack, and that if we have to retain a part of our navy in order to defend the canal on both sides, then the canal becomes a burden and not an instrument of defence at all. The canal ought to defend itself, and we ought to have fortifications there which will be powerful enough to keep off the navies of any nation that might possibly attack us. I am glad to see that Capt. Alfred Mahan, one of the greatest naval strategists, in a communication to this morning's *Tribune*, confirms this view.

Again, under our treaty with England and other countries, it is we who guarantee the neutrality of the canal. It is not the other countries that guarantee it to us, and we are bound, if we conform to the treaty with England, to put ourselves in such a condition that we can perform that guaranty. Suppose England is at war with some other country that is not bound to us by treaty rights at all; isn't it essential that we should have fortifications there to protect the canal, not only for our own use and for the world's commerce, but for the use of England and her warships as a means of passage? In other words, we have to preserve that canal as a means of transit to belligerents in time of war as long as we are ourselves not engaged in the controversy.

But it is said that we could induce all the powers to come in and consent to the neutrality of the canal as a treaty obligation. I should be glad to do this if possible; but, even if we do this, can we feel entirely safe by reason of that agreement from a possible injury to the canal by some irresponsible belligerent, at least under conditions as they now are?

Then it is said that the fortifications are going to cost \$50,000,000. This is an error. The estimated cost of the fortifications for the canal is \$12,000,000. That, I submit, constitutes hardly more than 2 per cent. of the cost of the canal—a first premium for insuring its safety that is not excessive.

It is also said that it will cost \$5,000,000 a year to maintain them. This is also an error. I have consulted the War Department, and they advise me that the addition to the annual Government cost of maintenance of fortifications and military establishment in time of peace due to the fortifications of the

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and see conditions as they are. Some earnest advocates of peace weaken their advocacy by failing to do this. War is still a possibility; and a President, a Senator, a Congressman who ignores it as something against which proper precautions should be taken subjects himself in time of peace to the just criticism of all reasonable men, and, when war comes and finds the nation unprepared, to the unanimous condemnation of his indignant fellow countrymen.

FORTIFICATION OF THE CANAL

HOUSE OF REPRESENTATIVES, FEBRUARY 25-27, 1911

On February 25 James A. Tawney [Minn.] moved in the House, in connection with a general appropriation bill, an appropriation to enable the President to ascertain whether or not the principal maritime powers were willing to unite with us in a convention or treaty whereby they will be bound not only not to injure or destroy the canal themselves, but to aid us in protecting it against any nation which might declare its purpose to do so.

He spoke as follows:

Mr. Chairman, if it were desirable to invite the nations of the world to destroy the Panama Canal, no better method of extending that invitation could be adopted than to fortify it. We will thereby say to the world that we will insure and protect the neutrality of the canal so long as we deem it necessary or convenient to do so. But when we no longer deem the neutralization of the canal necessary to our interests we will be prepared to violate our solemn treaty obligations with other nations by terminating the neutrality of the canal. In proof of this statement, let me read from the testimony of General Leonard Wood:

But, as I look at it, one thing is certain. We shall build the canal and maintain it for the use of all countries in time of peace and control it in time of war as our safety and interests demand.

This declaration of purpose, coming from Lieutenant-General Wood, Chief of Staff, when read in the light of our solemn treaty obligations with Great Britain, contained in article 3 of that treaty, which says that "The canal shall be free and open to

the vessels of commerce and of war of all nations observing these rules"—that is, the rules governing the neutralization prescribed in the treaty—discloses a national purpose in respect to our relations with the other nations of the world more in keeping with the diplomatic policies of nations during the Middle Ages than with the high standard of national honor which all nations now profess and endeavor to follow. [Applause.]

In my judgment and, I believe, in the judgment of the great majority of the American people who have not been hypnotized by the policy of militarism, it would be far better for us to rely upon the material interest which every nation in the world has in maintaining the integrity of the canal and protecting it than to construct fortifications for that purpose. If we can not rely for the protection of the canal and its neutrality upon the honor and good faith of the nations for whose benefit the American people, at a cost of \$400,000,000, have constructed it, then we can not protect the canal and its neutrality with fortifications.

The attempt, which is the purpose of my amendment, should at least be made before embarking upon a policy which will necessitate a perpetual annual charge upon our people, one that will grow more burdensome as time goes by, and one that may make it necessary in the future to construct additional fortifications and to maintain permanently on the canal zone an army three times the size of the army now proposed, for no man can predict, once we have embarked upon the policy of fortifying the canal, the extent to which these fortifications may be enlarged and extended in the future.

I hope, therefore, that this amendment will be agreed to. If it is, the President will then have an opportunity to ascertain whether the nations of the world are willing, in consideration of the enormous expense the American people have incurred in the construction of the canal for their benefit, to give bond that they will not under any circumstances interfere with the right of the United States to prescribe rules and regulations for the use of the canal, and that they will not, intentionally or otherwise, injure or attempt to destroy it. [Applause.]

Swagar Sherley (Kentucky) replied to Mr. Tawney.

Let the gentlemen who talk about neutrality being observed point to the instances where there has been any real punishment of a nation that has seen fit to violate neutrality. Has Japan been punished by any of the great nations for her violation of

fleet. If we had the canal fortified what was left of the fleet could go into that canal, could join the Atlantic fleet or the Atlantic fleet could come through as a reinforcement. But what would you have as a result of the neutrality? The destruction of your fleet would mean instant seizure of the canal, and, bear in mind this, in regard to paying the penalty for violation of neutralization, what will it weigh according to the advantage that would come to the enemy by the seizure of such property as the Panama Canal? The seizure and successful holding of that canal would be sufficient to force this country into terms of peace, and bigger than any danger that it might suffer hereafter in the way of punishment would be the advantage it gained by its possession. Gentlemen, it is resting upon an idle dream to hope that when the stress of war comes nations will be so restrained as not to take advantage of the tremendous temptation that would be held out to them by the non-fortification of this canal. Better abandon the fortification of your seacoast and ask of the world that it enter into agreement to make neutral in time of war your coasts, because practically you have created now a most important coast line of America. [Loud applause.]

On February 27 General J. Warren Keifer (Ohio) spoke in the House against fortification of the canal.

The 1907 Hague Peace Conference adopted rules of war and regulations to govern the rights and duties of neutralized places, which severally prohibit bombardment of undefended ports, neutral territory, and neutral waters, or the commission of other acts which would be a violation of neutralization or which would result in the destruction or seizure of any property of the enemy in time of war, save when imperatively necessary.

These rules and regulations were signed severally by 42 of the powers of the world, the United States heading the list, Russia, Japan, England, France, Germany, Austria, Spain, Argentina, Colombia, and Brazil, and all other great powers being among the number. The United States later, by and with the advice and consent of the Senate, ratified all these rules and regulations, and President Taft, February 28, 1910, proclaimed them of binding force—

"to be observed and fulfilled with good faith by the United States and the citizens thereof."

It will be seen that, without treaty guaranties of neutralization, if the canal is undefended all the powers of the world are

the treaty obligations in regard to Manchuria? Has Austria-Hungary been punished for the violation of the treaty agreements in regard to the Balkan States? Do you suppose that Belgium's neutrality would have been preserved during the Franco-Prussian War if it had not been for the show of force made by Belgium herself? Is Switzerland maintaining an army for nothing? Her neutrality has been guaranteed. It may be that in the far distant future the time will come when international agreements may be observed without any other force than the moral one that should sustain them, but there is nothing in the past history of the world that warrants the assumption that that time is now. Talk about cost! What folly it is, after having expended four hundred odd millions of dollars, to hesitate to spend a few more to protect what is practically a new coast line of America! [Applause.]

Let nobody be deceived by the comparison of the Panama with the Suez Canal. If England did not depend for her position upon having a navy equal to that of any other two nations, she would not be so secure or content in regard to the neutralization of the Suez Canal. Bear in mind, also, that the Suez Canal in its geographical relation is not of prime importance to England. Bear in mind, also, that she is protecting the entrances there, but remember that Panama is right at our door. What means neutrality as gentlemen construe it? It means one of two things: That in case of war between America and another country either the canal shall be closed to both countries or open to both. Have we spent this money in vain? Have we made possible the passage of our fleet from one ocean to the other and then when the need for that passage comes will we agree that it shall not take place except with the long, impossible trip around the Horn? Or take the other proposition: that the canal shall be kept open to both belligerents. Shall we throw away all of our advantage; shall we give to the attacking enemy the right to come through that canal; and, if it had the right to come through it, do you believe it would hesitate to seize it? What would matter the violation of neutrality compared with the possession of one of the greatest assets of the nation?

Mr. TAWNEY.—A fleet would have to go there before it could enter there and three and one-half miles off the shore belongs to the world.

Mr. SHERLEY.—What does that mean, that it has to go there? It means that practically you have got to have a fleet in both oceans. But suppose you have a fleet in the Pacific Ocean and the war is with an enemy in the Pacific and it defeats your

solemnly bound not to fire upon or destroy it, even in time of war in which the United States is a party. The moral force as well as the binding character of these rules and regulations insures their observance.

The policy of the United States, at least since Monroe's Administration, should be respected. Presidents, Secretaries of State, statesmen and patriots, Senators and Representatives have, in unbroken line, favored complete neutralization of any isthmian canal.

The Presidents and great statesmen from Monroe to President Taft did not regard international neutralization treaties as infringing the Monroe Doctrine.

No instance during that time will be found where the right to neutralize the canal when built was opposed, or the right of the United States to fortify it was advocated, unless, possibly, by a very small minority of Senators during the proceedings to ratify the Hay-Pauncefote treaties, and they hardly went so far as to favor such right.

The strongest reason, however, even stronger, if possible, than the treaty obligations, is the strategic importance to the United States of neutralizing the Panama Canal in case it is engaged in war. In that event it would not have to defend the canal; its safety would be guaranteed beyond peradventure; its revenues and that of its auxiliary railroad would not be interrupted; our army and navy would be free to pass and re-pass through it and to operate when and where needed; the great expense for fortifications, harbors, naval stations, dry-docks for our navy, and the like, and for additions to the army and navy of the United States, including a substantial increase of officers and men, also battleships, and for other necessary offensive and defensive war preparations and for the cost of sanitation; for transports to continuously carry supplies, and for other expenses of maintenance and the keeping of the canal and its auxiliary railroad on a continuous war footing, would also be saved.

To close the canal, in time of war, to other nations or to the enemy would secure no advantage, nor would any strategic advantage be lost to the United States by keeping it open. If the enemy had a fleet in Atlantic waters, we would meet him there, and if in Pacific waters we would meet him there, and if he had a divided fleet, one in each ocean, we would concentrate our warships and beat him in detail.

If we fortify the canal, we must maintain an army of occupation of great strength at its ends and on its line, likewise fleets

of ships to support the army, and, if the canal should not be held, it would be lost to the United States. In time of war the United States will need its military and naval forces elsewhere.

But by no possibility would the canal be lost to the United States if neutralized, not even by defeat in war. A treaty of neutralization is never broken, and its guarantors would enforce it; and should it, by any possibility, be violated they would require ample indemnity.

The Panama Canal was designed to promote commerce, not war. In the century of discussion over the practicability and necessity of connecting the Atlantic and Pacific Oceans by a canal across the Isthmus not a suggestion has been made, until very recently, either by a President or statesman, that such canal should be built as a necessary war measure. As commerce does not flourish in war times, neutralization has always been insisted on to preserve commerce in time of war as in time of peace. It has been a promise to the civilized world ever since a canal across the Isthmus of Panama was thought practicable that it should, in perpetuity, be neutralized—kept open and free to the ships and flags of all nations "in time of war as in time of peace."

The Republic of the United States, with all its boasted Christian civilization, should be the last to break this sacred promise.

The duty of the United States to neutralize the canal is both of obligation and interest.

It should be neutralized for strategic as well as economic reasons and to promote peace on earth.

On March 15, 1912, William C. Adamson (Georgia) introduced in the House a bill to provide for the opening, maintenance, protection, and operation of the Panama Canal. It was referred to the Committee on Interstate and Foreign Commerce.

It was reported by Mr. Adamson from the committee on March 16. He thus explained the provision in regard to tolls (section 5).

NO DISCRIMINATION IN CANAL TOLLS

MAJORITY REPORT OF HOUSE COMMITTEE ON PANAMA CANAL

This section requires that tolls shall be imposed and operate uniformly without preference or discrimination upon all vessels of all peoples and all nations, except vessels belonging to the Government of Panama and the Government of the United

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tion of that part of the treaty, the majority of the committee recommend uniform tolls for reasons which they regard as good and sufficient. First, the financial success of the canal is of prime importance, and its operation is the main object of this bill. Financial returns in the beginning are in doubt.

The majority of the committee believe that for the first few years it is right and just to open the canal and demonstrate what the financial returns will be and what success we will realize in securing and handling traffic before taking up the question of exempting any vessels. We also believe that in opening so vast an enterprise we have that right in order to justify its construction and existence by operating it for a while untrammelled and unshackled by any other issues and interests. We love the American flag and desire the prosperity of American shipping. Most of us disapprove of the methods by which our foreign shipping was driven from the ocean, but Congress is here always and can adopt methods to restore the shipping without hampering the canal operation with that problem. If American ships need the aid of Government, either in foreign or coastwise trade, it ought to be considered as an independent proposition, entirely divorced from the canal subject, so as to avoid all embarrassment in the management of that great project. It is neither fair nor wise to attach the proposition as a condition of canal operation, when separate bills can deal with the matter at any time, expressing the will of Congress much more fairly and distributing the assistance provided by extending it to all coastwise ships rather than by limiting it to the small per cent. of them which will go through the canal. We found from the hearings that the coastwise ships which will pass through the canal do not need the remission of the tolls.

Some promoters and speculators, tickling the cupidity of financiers who wish to finance new enterprises, are willing to build new ships provided the Government, in advance, will assure them bounty or subsidy to the amount of the tolls. Not satisfied with that and the advantages of an exclusive monopoly of the coastwise business, they suggest still other concessions and gratuities from the Government, and have sent out flashing prospectuses of the immense profit promised by the operation of their new ships by the grace of the Government through preferential tolls, and solicit subscriptions for stock with assurances of tremendous dividends. Several companies are already doing an extensive coastwise business with a large number of ships, and some of them are building additional ships. They are all prosperous. Many of their ships will use the canal to the full extent

States, which include those of the Panama Railroad, all the stock of which is owned by the Government of the United States. These exceptions are made because the "United States enjoys all the rights incident to construction as well as the exclusive right of providing for the regulation and management of the canal." As such it is entitled to all the benefits and profits resulting from ownership and operation thereof. As tolls paid out of the common treasury would instantly return to the same common treasury, such performance would be entirely useless, and in the exercise of common sense will be omitted. We charge other vessels because it is our canal and our service. We pass those belonging to our own Government free because the canal belongs to the Government. The ship and the tolls also belong to the Government. The exemption covers the ships belonging to the Government of Panama because, under the facts and the terms of the treaty with her, which by our treaties with Great Britain we were authorized to make, she became a quasi party to the construction and operation.

While many members of our committee believe that by the terms of our treaties with Great Britain we are prevented from allowing preferential or free tolls to ships of American registry, either coastwise or foreign, the majority of the committee voting for uniform tolls authorize and request the statement—positive, plain, and unequivocal—that no language of this section was chosen or used for the purpose of foreclosing discussion and differing opinions on that question. They authorize the express affirmation that this provision is adopted for present use, disclaiming all intention to declare in this section any construction of the language of the treaty or to establish any precedent or permanent legislative policy or to bind any future Congress should it be deemed expedient or adjudged competent to adopt a different basis. This statement of the committee may be clearly understood by reference to the original and committee prints of the bill, from which the committee adopting this section eliminated all reference to treaties. The language beginning on page 6 with the words "No preference shall be given," etc., which has been criticized as an attempt to construe the treaty and thereby estop us from future consideration of the question, was not quoted from the treaty at all, but was taken from bills introduced by advocates of free or preferential tolls. One containing the same language has been introduced by the leading champion and signer of the minority views [Mr. Knowlton]. Not deeming it necessary at this time nor for this purpose to make a legislative declaration as to the construc-

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justified by the traffic, and there will never be wanting ships to do the business if traffic invites. The shortening of distance and time of voyages will insure such reduction in coast-to-coast freight rates as to render the small toll charges we authorize immaterial as affecting competition by the transcontinental railroads or by the Magellan or Cape Horn route unless the coastwise ships themselves keep up the freight rates through the canal. In that event the tolls would alike be immaterial. The operators of coastwise ships and ship lines are very shifty and discreet. They have an eye ever open to the main chance, just like foreign ships and interstate railroads. Of course, it is purely by accident and through inadvertence that they never get in one another's way. Although human, they would scorn combinations. In fact, combinations are unnecessary as well as bad. But these ship companies somehow contrive that lines grow up between certain ports and other lines grow up between other ports, each route between two ports being served by a different line of ships from those running between two other ports, so that it is very rare that any two ports are embarrassed by having to choose between two lines or two ships competing for their business. It is even said that sometimes an irresistible longing arises, spontaneous, it is true, but almost as unerring as if by compulsion, to limit the patronage of the business men of a port to a particular line without encouraging any other. These companies frankly admit that the same courtesy and prudence will be observed among them as to running ships through the Panama Canal.

We further believe that, whether a governmental gratuity is considered as a charity to an unprofitable and dying business or as a bounty to prosperous shipping, the Government should in fairness treat all of the same class alike. All interstate coastwise ships are important. The cities of the Atlantic coast interchange more business with one another than will ever go through both the Panama and the Suez Canals. More business now passes through the Soo Canal between the Great Lakes than will ever patronize both the Panama and the Suez Canals. The coastwise traffic between the Pacific coast cities that will never pass through the canal at all is very important. Ninety per cent. of the coastwise ships, busy all the time in interstate business, will never approach the canal at all. Less than 10 per cent. of all these coastwise ships will use the canal, making longer journeys, charging correspondingly more freight and passenger rates, and making infinitely more money, yet it is selfishly demanded that those few ships (for only a few will be

needed) shall be given their tolls in the interests of interstate trade, while the 90 per cent. rendering service just as valuable in interstate commerce would not participate in the contribution. When we go to voting away the Government's money and credit to special interests, we prefer some method more fair and equitable. This small shipping interest has secured indorsements and recommendations from some trade organizations in various coast cities of the country on the erroneous theory that shippers would secure the benefits of the remitted tolls through reduced freight rates. This is a delusion, pure and simple, as we have already shown. It is also demonstrated by history, observation, and experience. But suppose the shippers did not secure the benefit of the remitted tolls. They would not and could not pass it to their customers. It would be impossible of division, apportionment, and distribution among them. Being impossible, it is admittedly never attempted. Only a small per cent. of the American people will ship freight in considerable quantities through the canal. It is a catchy phrase, plausible, sophistical, and misleading, that "we can use our canal for our own benefit," which is the slogan of the small special interest demanding preferential tolls.

In principle and theory the Government and the people are identical and their interests the same. But the 1 per cent. or less of our population financially interested in ships can hardly be regarded as identical with the whole people nor the sole beneficiaries of the treasury. All the people own the treasury, and the treasury may be replenished by compulsory contributions from all the people. We may rightfully appropriate from the treasury for the benefit of all the people, but giving public funds to special interests would be an unauthorized diversion, and in politics and morals amount to a misappropriation of the people's money. But it is said that it is so easy just to remit the tolls before they go into the treasury. It amounts to the same thing as taking it out of the treasury, where all the tolls belong, and we should not divert any from going in. It is different from prohibitory tariff protection which establishes a condition for transacting business. It is different from excluding foreign competition from the coastwise trade, practiced, not for the reason that, incidentally, it helps to enrich shipowners, but in the interests of sound public policy, not always, however, realized, that aliens should not operate in our domestic commerce and become familiar with our internal affairs. That exclusion also stops with making a condition for highly profitable business. But the remission or refunding of tolls means

We are neither required nor authorized to use the canal nor its operation as a pretext to attempt the regulation of the commerce of the world nor meddle with any details or conditions of trade away from the canal. There are other methods of dealing with all other subjects. The highest authorities among the advocates of Government aid to domestic ships have recognized that fact by recommending that tolls be collected and refunded, and bills have been introduced for the purpose of refunding its tolls. Let those bills be considered as separate propositions. The only parties as yet to the treaties under which the canal is being constructed are Great Britain, the Republic of Panama, and the United States. If, under the treaty, our ships can be allowed preferential tolls, the other two parties to the treaties will claim similar consideration. If, as we believe, the treaties do not permit such treatment, it is highly probable that both England and Panama would consent to such modification as would permit it. The territory of Panama, as that of Canada, extends from coast to coast, just as in our own case, and both Canada and Panama have coastwise trade and coastwise vessels. With such a modification it would be possible, if our Government wished to inaugurate such an unfair system—that is, unfair to our own citizens—to adopt preferential tolls on such terms as may be provided by the modified treaty. Then the great majority of the ships of the world could and would, easily and promptly, enter the coastwise trade of Canada, the United States, or Panama. As coastwise ships are not prohibited from extending their activities into the foreign trade, the ships of these three countries would immediately monopolize the use of the canal and it would automatically become a free canal. There would be no competing ships to pay the tolls. It may be interesting to note that when the Hay-Pauncefote treaty was pending in the Senate, December 13, 1900, the following amendment was proposed:

"Strike out article 3 and substitute 'The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.'"

The amendment was rejected on roll call—yeas 27, nays 43.

Those who demand this preference make protestations of patriotism and love for the flag loud and profuse, but those professions are all that they offer for the largess demanded, and experience demonstrates that they would do business under a foreign flag just as readily if more profits were guaranteed thereby. The demand for discrimination in favor of American

taking money already ascertained to belong to all the people and giving it to a favored few. It is also urged that remission should be allowed because it is apprehended that some foreign nations may pay tolls for their ships. We can not understand how that can affect the coastwise ships at all, inasmuch as no foreign ship can participate in the coastwise trade. At once the most plausible and most erroneous contention is, that the canal being an American waterway it would be a departure from our traditional policy of free waterways if we should charge tolls for coastwise ships. Based on false premises, that argument proves too much. If the canal is a purely domestic waterway we should not charge tolls to any vessel. There is no discrimination in the use of American waterways. Ships of all nationalities may use them alike. The Panama Canal is in a foreign country; we secured by treaties with two foreign countries our authority to construct and operate the canal with certain limitations and conditions, and we must act within these bounds.

It is urged that the stipulations for equality do not prevent preference for coastwise ships, because they are not in competition with foreign ships, which can not enter coastwise trade. In effect, the argument is that, being already protected against competition, one discrimination in their favor demands another. Being protected against all competition, they would be also exempt from tolls and place in their coffers the amount saved thereby. We think the treaty stipulations for equality of treatment mean treatment at the canal and nothing else. It is limited to "conditions and charges of traffic," which "conditions and charges of traffic shall be just and equitable." By that stipulation we are bound to levy such charges and establish and maintain such conditions of traffic at the canal as in those respects only will maintain it "free and open without discrimination in these respects."

We are not permitted to consider discrimination made in other respects and elsewhere in connection with the shipping of any country, but are bound by the language and intent of the treaties to preserve fairness and equality without discrimination in respect of "conditions and charges of traffic" at the canal; therefore, the case of *Olsen v. Smith* (195 U. S., 332), relied on by the advocates of preferential tolls, can have no application to the situation with which we are dealing. Whether two ships of diverse nationality are treated alike or differently in the home ports of either can have no effect or bearing on our treaty obligations to treat them both alike at the canal as to charges and conditions of traffic.

ships presents a square issue between a small fraction of the coastwise shipping interests and the entire population of the United States. The question which our committee decides in the negative, practically and substantially stated, is: Shall we, as representatives of the people, take from them, without consideration, return, or recompense, their money and give it to the small special interests operating but a small per cent. of the coastwise trade, who have no right to the money and do not need it, as their business is prosperous—certainly do not need it more than the other 90 per cent. of the coastwise trade against whom the discrimination in refusing to divide the subsidy with them would be as gross as the discrimination claimed against the people who, in the aggregate, are as patriotic as those few claiming preference?

On March 21 Joseph R. Knowland (California), who had introduced a bill providing for no tolls to American ships, submitted the minority report of the committee.

NO TOLLS FOR AMERICAN SHIPS

MINORITY REPORT OF HOUSE COMMITTEE ON PANAMA CANAL

Firmly convinced that the United States has the right to relieve American ships engaged in the coastwise trade from the payment of toll charges through the Panama Canal, the undersigned members of the Committee on Interstate and Foreign Commerce dissent from the report accompanying House bill 21969 submitted by the majority of the committee.

The minority enters an emphatic protest against the abandonment in this bill of our historic policy of free commercial intercourse between the States. This great canal, built for the American people by American money, genius, and enterprise, should be forever a free and untrammelled competing route with transportation by land. We can not emphasize too strongly the elementary proposition that tolls levied upon vessels engaged in commerce between our Eastern and Western seaboard increase the amount the transcontinental railroads may charge for the same service. If a vessel *en route* from San Francisco to New York through the canal were required to pay \$10,000 in tolls, the transcontinental railroads would largely be the beneficiaries. This question affects every ton of domestic freight that passes through the canal and every ton that is carried across the country by the railroads.

The talk of "subsidizing" the shipping interests at the expense of the American people is mere sophistry and only begets the issue. The tolls imposed at the canal would be added to the freight and paid by the American people who consume the commodities. We hold this proposition to be fundamental; and, viewed in this light, free tolls to our coastwise trade would not be a subsidy to shipowners, but a concession to the American people. Free tolls at the Panama Canal to our coastwise trade would be the same kind of a "subsidy" that was granted to 41,000,000 tons of shipping that passed through the Soo Canal in 1911. It is true that we levy no tolls upon Canadian vessels using the Soo Canal, but that is because American vessels are accorded the same treatment by the Canadian Government at the Welland Canal. By virtue of a reciprocal arrangement we receive our *quid pro quo* for passing Canadian vessels through the Soo Canal free of charge. We disclaim any antipathy against the railroads, but insist that this initial legislation for the government and management of the Panama Canal shall not take money from the pockets of the American people and give it to the great corporations that have already been munificently treated by the Federal Government.

We can not too strongly protest against the following language contained in section 5 of the bill:

"No preference shall be given nor discrimination shown, directly or indirectly, to the vessels if any nation, its citizens or subjects, other than vessels belonging to the Government of the United States (including those belonging to the Panama Railroad Company) and the Government of the Republic of Panama observing the rules and regulations of the Panama Canal."

This language amounts virtually to an interpretation in advance of the Hay-Pauncefote treaty adverse to the contention that this Government can, directly or indirectly, favor American shipping through an American waterway upon which we are expending over \$400,000,000.

The report of the majority in an attempt to explain away this objectionable language, disclaims that it was intended to thus construe the treaty. Regardless of the existence of intent we submit that the language is capable of no other interpretation. It is also argued that no future Congress would be bound. Directing attention to the fact that this is practically an admission that the language is as objectionable as charged, but acknowledging that it might not bind a future Congress, it is evident that, if a controversy arose between this nation and a foreign power involving an interpretation of the treaty, this

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"I am confident that the United States has the power to relieve from the payment of tolls any part of our shipping that Congress deems wise. We own the canal. It was our money that built it. We have the right to charge tolls for its use. Those tolls must be the same to every one, but, when we are dealing with our own ships, the practice of many Governments of subsidizing their own merchant vessels is so well established in general that a subsidy equal to the tolls, as equivalent remission of tolls, cannot be held to be a discrimination in the use of the canal. The practice in the Suez Canal makes this clear."

The Secretary of War [Henry L. Stimson], in his last annual report, is no less outspoken when he declares:

"Involved in the problem of fixing tolls is the question whether the United States has the right under the treaty to pay the tolls on American vessels using the canal. An examination of the treaty and the surrounding circumstances, to my mind, leaves no doubt as to the right of the United States, both legally and morally, to pay the tolls on its vessels. This is a perfectly recognized practice in respect to the tolls of the Suez Canal, the toll rules of which canal were adopted by the United States in the Hay-Pauncefote treaty for the government of the Panama Canal. At least one of our national competitors in the use of the Panama Canal—Spain—has already taken steps to provide for the payment out of her national treasury of the Panama tolls on one of the Spanish lines which will use that canal. Furthermore, I can see no difference, save in form (provided the tolls for other nations are kept reasonable, as we have also covenanted to do), whether the United States should make this appropriation out of her own treasury to American vessels, by receiving the toll money from them first and repaying it to them, or by simply relieving them from the payment of tolls in the first place."

The minority disagrees entirely with the view of the majority that the Hay-Pauncefote treaty makes it impossible for Congress to prefer our own vessels engaged in the coastwise trade. That portion of article 3 of the treaty which it is claimed would be violated by preferring our coastwise trade reads:

"The United States adopts as the basis of the neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople, signed the 28th of October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable."

It is manifest, from the reading of the treaty, that its purpose was to prevent discrimination against other nations. That

language would be cited to prove that the Congress of the United States has itself so interpreted the treaty and thus voluntarily surrendered every commercial advantage and proprietary right incident to the construction of this waterway. As an additional excuse it is charged that, in the bill introduced by "the leading champion and signer of the minority views" the same language was used. This statement is incorrect, as could have been easily ascertained by comparing the bills. The bill of the gentleman from California excepted all vessels of the United States (not Government vessels only), and specifically provided for free tolls for American ships in the coastwise trade. This is a matter of public record.

While disclaiming any intention to interpret the Hay-Pauncefote treaty in favor of foreign shipping interests, the majority report proceeds to call attention to the rejection of an amendment offered in the Senate when the treaty was pending reserving to the United States the right to discriminate in favor of vessels of its own citizens engaged in the coastwise trade. It is a matter of record that this amendment, offered by Senator Bard, of California, was rejected by a vote of 27 yeas and 43 nays. On the same day, however, an amendment was offered reserving the right to the United States to protect said canal in any way it might deem proper. This amendment was rejected on roll call, yeas 27, nays 44, and this was the fate of several other amendments similarly reserving to the United States the right to fortify the canal. It is unnecessary to call attention to the fact that fortifications are now being constructed. With further reference to the Bard amendment we have been granted authority to quote from a letter recently written by Senator Bard, in the course of which he states:

"When my amendment was under consideration it was generally conceded by Senators that even without that specific provision the rules of the treaty would not prevent our Government from treating the canal as part of our coast line, and consequently could not be construed as a restriction of our interstate commerce, forbidding the discrimination in charges for tolls in favor of our coastwise trade, and this conviction contributed to the defeat of the amendment."

We contend that our right to favor our own shipping in the matter of canal tolls can not be seriously questioned. The minority is not forced to offer profuse apologies for its position. The message of President Taft sent to Congress in December has the true American ring, and clearly states the case. These are the President's words:

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free tolls to our coastwise vessels would not discriminate against the vessels of other countries becomes apparent when we reflect that under our navigation laws foreign vessels are prohibited from engaging in our coastwise trade. That being true, it is of no concern to foreign nations, their citizens or subjects what treatment we accord to our coastwise trade.

Foreign nations have not considered that they were violating the rules for the neutralization of the Suez Canal by rebating tolls to vessels flying their own flag. The contemporaneous construction that the powers signatory to the convention of Constantinople have given that instrument supports the position of the minority that we have a perfect right under the Hay-Pauncefote treaty to favor our domestic shipping; and, if we have the right to collect the tolls at the canal and repay them, we certainly have the right to remit them in the first instance. It is unnecessary to resort to a device or subterfuge in order to do indirectly what we have a right to do directly.

It will be observed that the treaty provides that "the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality," yet this bill expressly reserves the right of the United States Government to pass its own ships of war through the canal without the payment of any tolls. We confess our inability to see the logic or consistency of the position of the majority that free tolls to ships of commerce would be a violation of the treaty, but that free tolls to ships of war would not be a violation of the treaty. The majority seek to justify the right to exempt war vessels of the United States from the payment of tolls under that clause of the treaty which provides that—

"the United States enjoys all the rights incident to construction as well as the exclusive right of providing for the regulation and management of the canal."

Under any fair construction of the treaty, however, this language must be considered in connection with the rules that are adopted in the treaty for the regulation and management of the canal. In other words, under the treaty the United States enjoys all the rights incident to the construction as well as the exclusive right of providing for the regulation and management of the canal, subject, however, to the rules therein provided for its regulation and management. These rules, as we have already seen, provide that the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality. If this language was

intended to prevent preferring our own vessels, it must apply equally to both vessels of commerce and vessels of war. Such a construction is inconsistent with the very purpose of the canal which was conceived primarily as a military necessity.

The majority dismissed the case of *Olsen v. Smith* (195 U. S., 332) with the remark that it has no application to the situation with which we are dealing, notwithstanding an examination of the case would have disclosed that, on the question of discrimination, it is on all fours with the subject we are now considering. In that case the treaty with Great Britain provided that—

"no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States."

The court held that this treaty was not violated by either the Texas statute or the Revised Statutes of the United States, section 4444, exempting coastwise steam vessels from the payment of pilotage charges. In that connection, speaking for the court, Mr. Justice White, now Chief Justice, said:

"Nor is there merit in the contention that as the vessel in question was a British vessel, coming from a foreign port, the State laws concerning pilotage are in conflict with the treaty between Great Britain and the United States, providing that 'no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States.' Neither the exemption of coastwise steam vessels from pilotage resulting from the law of the United States nor any lawful exemption of coastwise vessels created by the State law concerns vessels in the foreign trade, and, therefore, any such exemptions do not operate to produce a discrimination against British vessels engaged in foreign trade and in favor of the vessels of the United States in such trade. In substance the proposition but asserts that, because by the law of the United States steam vessels in the coastwise trade have been exempt from pilotage regulations, therefore there is no power to subject vessels in foreign trade to pilotage regulations, even though such regulations apply without discrimination to all vessels engaged in such foreign trade, whether domestic or foreign."

If a treaty with Great Britain providing that "no higher or other duties or charges shall be imposed in any ports of the United States on British vessels than those payable in the same ports by vessels of the United States" is not violated by an exemption in favor of our own vessels engaged in coastwise trade from payment of pilotage charges, it must necessarily follow that the Hay-Pauncefote treaty would not be violated by a similar exemption of our coastwise vessels from the payment of tolls at the Panama Canal.

The Panama Canal is being built on territory which was

purchased by the Government of the United States. We will expend in its construction upward of \$400,000,000, and are obligated by treaty to pay the Republic of Panama in perpetuity the sum of \$250,000 annually. We occupy the position of sovereign proprietor of the canal and the Canal Zone, a relation that none of the nine powers signatory to the convention of Constantinople sustained with reference to the Suez Canal. The Hay-Pauncefote treaty should be construed in the light of these facts, and when so construed the minority can not escape the conclusion that in signing, ratifying, and proclaiming this treaty to the world we were merely agreeing to the terms and conditions upon which the United States, the sovereign owner of the canal, would permit its use by the other nations of the world, its citizens or subjects.

While disclaiming any intention of construing the Hay-Pauncefote treaty, the majority in the report that accompanies this bill iterate and reiterate their belief that the treaty renders preference to our coastwise trade impossible. The minority believe in the religious observance of our treaty obligations as essential to the maintenance of our own self-respect and the confidence and friendly regard of other nations; but we refuse to assent to the mere suggestion, to say nothing of the bold declaration, that by the Hay-Pauncefote treaty we have, without consideration, bartered away to a foreign nation the constitutional power of Congress to regulate commerce between the United States and encourage the upbuilding and growth of our domestic shipping.

The bill came up for discussion on May 16 and was exhaustively debated along the lines marked out by the opposing committee reports until May 23, when it came to a vote. On May 18 Frank E. Doremus (Michigan) moved to substitute for section 5 one authorizing the President "to prescribe and from time to time change the tolls," and forbidding tolls to be levied upon "vessels engaged in the coastwise trade of the United States." This amendment was passed on May 23 by a vote of 147 to 127. The bill was then passed.

The bill was even more extensively discussed in the Senate than it had been in the House. It came to a vote on August 9. An amendment offered by James A. Reed (Missouri) to the effect that ships in the coastwise trade which were controlled by a person or company

doing business in violation of the Sherman Anti-Trust Act and its supplementary legislation should be debarred from the canal was adopted by a vote of 35 to 28. An amendment offered by Jonathan Bourne (Oregon) to the effect that ships of lines controlled by railroads with which the lines would compete if not so controlled should be debarred from the canal was then adopted by a vote of 36 to 25. Then Elihu Root (New York) moved to strike out the provision of no tolls on American coastwise ships. The motion was rejected without division. The bill was passed as amended by a vote of 47 to 15.

The House disagreed with the Senate amendments and a conference was appointed which made its report on August 14, accepting the Reed and Bourne amendments. The report was agreed to in the Senate on August 16 by a vote of 48 to 18. On August 17 the House agreed to the report without division. President Taft signed the bill on August 24, 1912.

GREAT DEBATES IN AMERICAN HISTORY

From the Debates in the British Parliament on the Colonial Stamp Act (1764-1765) to the Debates in Congress at the Close of the Taft Administration (1912-1913)

EDITED BY

MARION MILLS MILLER, LITT.D. (PRINCETON)

Editor of "The Life and Works of Abraham Lincoln," etc.

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INTRODUCTION

THE DOCTRINE OF EQUALITY AND THE RACE PROBLEM¹

SO far as the institution of slavery is concerned—in its relations to ownership and property in those of the human species—I have seen no reason whatever to revise or in any way to alter the theories and principles which I entertained when I entered Harvard in 1853, and in the maintenance of which I subsequently bore arms between 1861 and 1865. Economically, socially, and from the point of view of abstract political justice, I hold that the institution of slavery, as it existed in this country prior to the year 1865, was in no respect either desirable or justifiable. That it had its good and even its elevating side, so far at least as the African is concerned, I shall not deny. On the contrary, I see and recognize those features of the institution far more clearly now than I should have said would have been possible in 1853. That the institution in itself, under conditions then existing, tended to the elevation of the less advanced race I frankly admit I did not then think. On the other hand, that it exercised a most pernicious influence upon those of the more advanced race, and especially upon that large majority of the more ad-

¹ Adapted from an address delivered before the University of South Carolina on Founders' Day, January 16, 1913.

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were not only fundamentally wrong, but further involved a problem in the presence of which I confess to-day I stand appalled.

It is said, whether truthfully or not, that, when some years ago John Morley, the English writer and thinker, returned to England after a visit to this country, he remarked that the African race question, as now existing in the United States, presented a problem as nearly, to his mind, insoluble as any human problem well could be. I do not care whether Lord Morley made this statement or did not make it. I am prepared, however, to say that, individually, so far as my present judgment goes, it is a correct presentation. To us in the North, the African is a comparatively negligible factor. So far as Massachusetts, for instance, or the city of Boston more especially, is concerned, as a problem it is solving itself. Proportionately the African infusion is there becoming less—never large, it is incomparably less now than it was in the days of my own youth. Thus manifestly a negligible factor, it is also one tending to extinction. Indeed, it would be fairly open to question whether a single Afro-American of unmixed Ethiopian descent could now be found in Boston. That the problem presents itself with a wholly different aspect in Carolina is manifest. The difference too is radical; it goes to the heart of the mystery.

As I have already said, the universal "melting-pot" theory in vogue in my youth was that but seven or, at the most, fourteen years were required to convert the alien immigrant—no matter from what region or of what descent—into an American citizen. The educational influences and social environment were assumed to be not only subtle but all-pervasive and powerful. That this theory was to a large and even dangerous extent erroneous the observation of the last fifty years has proved, and our Massachusetts experience is sadly demonstrating it to-day. It was Oliver Wendell Holmes who, years ago, when asked by an anxious mother at what age the education of a child ought to begin, remarked in reply that it should begin about one hundred and fifty years before the child is born. It has so proved with us;

vanced race who were not themselves owners of slaves—of that I have become with time even more and more satisfied. The noticeable feature, however, so far as I individually am concerned, has been the entire change of view as respects certain of the fundamental propositions at the base of our whole American political and social edifice brought about by a more careful and intelligent ethnological study. I refer to the political equality of man, and to that race absorption to which I have alluded—that belief that any foreign element introduced into the American social system and body politic would speedily be absorbed therein, and in a brief space thoroughly assimilated. In this all-important respect I do not hesitate to say we theorists and abstractionists of the North, throughout that long anti-slavery discussion which ended with the 1861 clash of arms, were thoroughly wrong. In utter disregard of fundamental scientific facts, we theoretically believed that all men—no matter what might be the color of their skin or the texture of their hair—were, if placed under exactly similar conditions, in essentials the same. In other words, we indulged in the curious and, as is now admitted, utterly erroneous theory that the African was, so to speak, an Anglo-Saxon, or, if you will, a Yankee, "who had never had a chance,"—a fellow-man who was guilty, as we chose to express it, of a skin not colored like our own. In other words, though carved in ebony, he also was in the image of God.

Following out this theory, under the lead of men to whom scientific analysis and observation were anathema if opposed to accepted cardinal political theories as enunciated in the Declaration of Independence as read by them, the African was not only emancipated, but, so far as the letter of the law, as expressed in an amended Constitution, would establish the fact, the quondam slave was in all respects placed on an equality, political, legal, and moral, with those of the more advanced race.

As one who largely entertained the theoretical views I have expressed, I do not hesitate here to say, as the result of sixty years of more careful study and scientific observation, that the theories then entertained by us

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and the fact is to-day in evidence that this statement of Dr. Holmes should be accepted as an undeniable political aphorism. So far from seven or fourteen years making an American citizen, fully and thoroughly impregnated with American ideals to the exclusion of all others, our experience is that it requires at least three generations to eliminate what may be termed the "hyphen" in citizenship. Not in the first, nor in the second, and hardly in the third, generation, does the immigrant cease to be an Irish-American, or a French-American, or a German-American, or a Slavonic-American, or yet a Dago. Nevertheless, in process of time, those of the Caucasian race do and will become Americans. Ultimately their descendants will be free from the traditions and ideals, so to speak, ground in through centuries passed under other conditions. Not so the Ethiopian. In his case we find ourselves confronted with a situation never contemplated in that era of political dreams and Scriptural science in which our institutions received shape. Stated tersely and in plain language, so far as the African is concerned—the cause and, so to speak, the motive of the great struggle of 1861 to 1865—we recognize the presence in the body politic of a vast alien mass which does not assimilate and which cannot be absorbed. In other words, the melting-pot theory came in sharp contact with an ethnological fact, and the unexpected occurred. The problem of African servitude was solved after a fashion; but in place of it a race issue of most uncompromising character evolved itself.

I am by no means prepared to go the length of an English authority in recently saying that "emancipation on two continents sacrificed the real welfare of the slave and his intrinsic worth as a person to the impatient vanity of an immediate and theatrical triumph."¹ This length, I say, I cannot go; but so far as the present occasion is concerned, with such means of observation as are within my reach, I find the conclusion difficult to resist that the success of the abolitionists in effecting the emancipation of the Afro-American, as unexpected

¹ Bussell's (Dr. F. W.) "Christian Theology and Social Progress." Bampton Lectures, 1905.

and sweeping as it was sudden, has led to phases of the race problem quite unanticipated at least. For instance, as respects segregation. Instead of assimilating, with a tendency to ultimate absorption, the movement in the opposite direction since 1865 is pronounced. It has, moreover, received the final stamp of scientific approval. This implies much; for in the old days of the "peculiar institution" the relations between the two races were far more intimate, kindly, and even absorptive than they now are.

That African slavery, as it existed in the United States anterior to the year 1862, presented a mild form of servitude, as servitude then existed and immemorably had almost everywhere existed, was, moreover, incontrovertibly proven in the course of the Civil War. Before 1862 it was confidently believed that any severe social agitation within, or disturbance from without, would inevitably lead to a Southern servile insurrection. In Europe this result was assumed as of course; and, immediately after it was issued, the Emancipation Proclamation of President Lincoln was denounced in unmeasured terms by the entire London press. Not a voice was raised in its defence. It was regarded as a measure unwarranted in civilized warfare, and a sure and intentional incitement to the horrors which had attended the servile insurrections of Haiti and San Domingo; and, more recently, the unspeakable Sepoy incidents of the Indian mutiny. What actually occurred is now historic. The confident anticipations of our English brethren were, not for the first time, negated; nor is there any page in our American record more creditable to those concerned than the attitude held by the African during the fierce internecine struggle which prevailed between April, 1861, and April, 1865. In it there is scarcely a trace, if indeed there is any trace at all, of such a condition of affairs as had developed in the Antilles and in Hindustan. The attitude of the African toward his Confederate owner was submissive and kindly. Although the armed and masterful domestic protector was at the front and engaged in deadly, all-absorbing conflict, yet the women and children of the

Southern plantation slept with unbarred doors—free from apprehension, much more from molestation.

Moreover, during the old days of slavery there was hardly a child born, of either sex, who grew up in a Southern household of substantial wealth without holding immediate and most affectionate relations with those of the other race. Every typical Southern man had what he called his "daddy" and his "mammy," his "uncle," and his "aunty," by him familiarly addressed as such, and who were to him even closer than are blood relations to most. They had cared for him in his cradle; he followed them to their graves. Is it needful for me to ask to what extent such relations still exist? Of those born thirty years after emancipation, and therefore belonging distinctly to a later generation, how many thus have their kindly, if humble, kin of the African blood? I fancy I would be safe in saying not one in twenty.

Here, then, as the outcome of the first great issue occupying the thought and exciting the passions of the period before the Civil War, is a problem wholly unanticipated—a problem which, merely stating, I dismiss.

Charles F. Adams

Friends (Quakers) in Pennsylvania, New Jersey, Delaware, and western parts of Maryland and Virginia praying:

That Congress might make "a sincere and impartial inquiry whether it be not an essential part of the duty of your exalted station to exert upright endeavors, to the full extent of your power, to remove every obstruction to public righteousness, which the influence or artifice of particular persons, governed by the narrow, mistaken views of self-interest, has occasioned, and whether, notwithstanding such seeming impediments, it be not in reality within your power to exercise justice and mercy, which, if adhered to, we cannot doubt must produce the abolition of the slave trade."

In their preamble the petitioners stated that a similar memorial had been made to Congress in 1783, but that,

"... though the Christian rectitude of the concern was by the delegates generally acknowledged, yet, not being vested with the powers of legislation, they declined promoting any public remedy against the gross national iniquity of trafficking in the persons of fellowmen; but divers of the legislative bodies of the different States on this continent have since manifested their sense of the public detestation due to the licentious wickedness of the African trade for slaves, and the inhuman tyranny and blood-guiltiness inseparable from it; the debasing influence whereof most certainly tends to lay waste the virtue and, of course, the happiness of the people."

Mr. John Lawrence also presented an Address from the Society of Friends, in the city of New York, in which they set forth their desire of cooperating with their Southern brethren in their protest against the slave trade.

It was moved to refer the petitions to a committee. This was opposed by James Jackson [Ga.], as diverting the attention of the members from the great question before them to one of "questionable policy," and which Congress could take up without advisers, "because the Constitution expressly mentions all the power they can exercise on the subject."

In the debate which ensued on the subject the leading

CHAPTER I

THE SLAVE TRADE

[DEBATES ON EARLY ABOLITIONIST PETITIONS]

Memorial by Quakers Against the Slave Trade: Debate on Its Reference to Committee; in Favor, Thomas Fitzsimons [Pa.], James Madison [Va.], Thomas Hartley [Pa.], Roger Sherman [Conn.]; Opposed, Michael J. Stone [Md.], James Jackson [Ga.], William L. Smith [S. C.], Thomas T. Tucker [S. C.]; Memorial Is Laid on the Table—Memorial by the Pennsylvania Abolition Society Against Slavery: Debate on Its Reference to Committee; in Favor, John Page [Va.], Thomas Scott [Pa.], Madison, Elbridge Gerry [Mass.]; Opposed, Tucker, Ædamus Burke [S. C.], Jackson, Abraham Baldwin [Ga.], Smith—Memorials Are Referred to Committee—Report of Committee—Debate on Its Amendment: Those in Favor of Original Report Indicating Sympathy with Petitioners, Hartley and Elias Boudinot [N. J.]; Those in Favor of Striking Out These Sympathetic Clauses, Alexander White [Va.], Burke, and Smith—Report Is so Amended—The Fugitive Slave Law of 1792: Debate in 1797 on a Petition of Free Negroes Against Its Operation in Their Case; in Favor of the Petition, John Swanwick [Pa.], George Thatcher [Mass.], Samuel Sitgreaves [Pa.], Joseph B. Varnum [Mass.]; Opposed, Thomas Blount [N. C.], John Heath [Va.], Madison, Smith, Nathaniel Macon [N. C.]—Speech of John Rutledge, Jr. [S. C.], Against Accepting a Petition of Negroes Against Slavery: "The South Will Protect Itself"—Petition to Congress by Quakers to Cooperate with Foreign Nations in Suppressing the Slave Trade—Debate in the Senate on the Petition: in Favor, James Burrill [R. I.], Rufus King [N. Y.], David L. Morrill [N. H.]; Opposed, George M. Troup [Ga.], George W. Campbell [Tenn.], James Barbour [Va.]—Later History of the Suppression of the Traffic.

THAT the questions connected with slavery had not been settled by the compromises on the subject in the Constitution [see Chapter xiii, Vol. I] was shown by a petition presented to Congress in its first session, praying for the abolition of the slave trade.

On February 11, 1790, Thomas Fitzsimons [Pa.] presented a petition from the Yearly Meeting in 1789 of

speakers in behalf of committing the petitions were James Madison [Va.], Thomas Hartley [Pa.], and Roger Sherman [Conn.]; against committing it, Michael J. Stone [Md.], James Jackson [Ga.], William L. Smith [S. C.], and Thomas T. Tucker [S. C.].

PETITIONS AGAINST SLAVERY

HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1790

MR. MADISON.—I apprehend gentlemen need not be alarmed at any measure it is likely Congress will take, because they will recollect that the Constitution secures to the individual States the right of admitting, if they think proper, the importation of slaves into their own territory for eighteen years yet unexpired; subject, however, to a tax, if Congress is disposed to impose it, of not more than ten dollars on each person. The petition, if I mistake not, speaks of artifices used by self-interested persons to carry on this trade.

If anything is within the Federal authority to restrain such violation of the rights of nations and of mankind, as is supposed to be practiced in some parts of the United States, it will certainly tend to the interest and honor of the community to attempt a remedy, and is a proper subject for our discussion. It may be that foreigners take the advantage of the liberty afforded them by the American trade to employ our shipping in the slave trade between Africa and the West Indies, when they are restrained from employing their own by restrictive laws of their nation. If this is the case, is there any person of humanity that would not wish to prevent them? Another consideration why we should commit the petition is that we may give no ground of alarm by a serious opposition, as if we were about to take measures that were unconstitutional.

MR. STONE feared that, if Congress took any measures indicative of an intention to interfere with the kind of property alluded to, it would sink it in value very considerably, and might be injurious to a great number of the citizens, particularly in the Southern States. He thought the subject was of general concern, and that the petitioners had no more right to interfere with it than any other members of the community. It was an unfortunate circumstance that it was the disposition of religious sects to imagine they understood the rights of human nature better than all the world besides; and that they would, in consequence, be meddling with concerns in which

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rights, it ought to be rejected as an attempt upon the virtue and patriotism of the House.

MR. SHERMAN observed that the petitioners from New York stated that they had applied to the legislature of that State to prohibit certain practices which they conceived to be improper, and which tended to injure the well-being of the community; that the legislature had considered the application, but had applied no remedy because they supposed that power was exclusively vested in the general Government under the Constitution of the United States; it would, therefore, be proper to commit that petition, in order to ascertain what are the powers of the general Government in the case.

MR. TUCKER.—Congress has no authority, under the Constitution, to do more than lay a duty of ten dollars upon each person imported; and this is a political consideration, not arising from either religion or morality, and is the only principle upon which we can proceed to take it up. But what effect do these men suppose will arise from their exertions? Will a duty of ten dollars diminish the importation? Will the treatment be better than usual? I apprehend not; nay, it may be worse, because an interference with the subject may excite a great degree of restlessness in the minds of those it is intended to serve, and that may be a cause for the masters to use more rigor toward them than they would otherwise exert; so that these men seem to overshoot their object. But if they will endeavor to procure the abolition of the slave trade, let them prefer their petitions to the State legislatures, who alone have the power of forbidding the importation. I believe their applications there would be improper; but if they are anywhere proper it is there. I look upon the address, then, to be ill judged, however good the intention of the framers.

The address was ordered to lie on the table.

On February 12 the Pennsylvania Society for Promoting the Abolition of Slavery, of which Benjamin Franklin was president, presented a memorial, not on the abolition merely of the slave trade but of slavery in general. This declared:

From a persuasion that equal liberty was originally the portion and is still the birthright of all men, and influenced by the strong ties of humanity and the principles of their institution, your memorialists conceive themselves bound to use all

they had nothing to do. As the petition relates to a subject of a general nature, it ought to lie on the table as information. He would never consent to refer petitions, unless the petitioners were exclusively interested. Suppose there was a petition to come before us from a society praying us to be honest in our transactions, or that we should administer the Constitution according to its intent, what would you do with a petition of this kind? Certainly it would remain on your table. He would, however, not have it supposed that the people had not a right to advise and give their opinion upon public measures; but he would not be influenced by that advice or opinion to take up a subject sooner than the convenience of other business would admit.

MR. HARTLEY thought the memorialists did not deserve to be aspersed for their conduct if influenced by motives of benignity. They solicit the legislature of the Union to prevent, as far as is in their power, the increase of a licentious traffic; nor do they merit censure because their behavior has the appearance of more morality than other people. Congress ought, not to refuse to hear the applications of their fellow citizens while those applications contain nothing unconstitutional or offensive.

MR. JACKSON.—I apprehend, if through the interference of the general Government the slave trade was abolished, it would evince to the people a disposition toward a total emancipation, and they would hold their property in jeopardy. Any extraordinary attention of Congress to this petition may have, in some degree, a similar effect. I would beg to ask those, then, who are desirous of freeing the negroes if they have funds sufficient to pay for them? If they have, they may come forward on that business with some propriety; but, if they have not, they should keep themselves quiet, and not interfere with a business in which they are not interested. They may as well come forward and solicit Congress to interdict the West India trade because it is injurious to the morals of mankind; from thence we import rum, which has a debasing influence upon the consumer. I hope the House will order the petition to lie on the table, in order to prevent an alarm to our Southern brethren.

MR. SMITH.—If I understood it right on its first reading the petition prays that we should take measures for the abolition of the slave trade. This is desiring an unconstitutional act, because the Constitution secures that trade to the States, independent of congressional restrictions, for a term of twenty-one years. If, therefore, it prays for a violation of constitutional

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justifiable endeavors to loosen the bands of slavery and promote a general enjoyment of the blessings of freedom. Under these impressions they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men who alone in this land of freedom are degraded into perpetual bondage, and who, amid the general joy of surrounding freedom, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and justice toward this distressed race, and that you will step to the very verge of the power vested in you for discouraging every species of traffic in the persons of our fellowmen.

Mr. Hartley then called up the memorial presented the day before, from the annual meeting of Friends at Philadelphia, for a second reading; whereupon the same was read a second time and moved to be committed.

In the debate which ensued the leading speakers for commitment were: John Page [Va.], James Madison [Va.], Thomas Scott [Pa.], and Elbridge Gerry [Mass.]; those against commitment were Thomas T. Tucker [S. C.], Ædamus Burke [S. C.], William L. Smith [S. C.], James Jackson [Ga.], and Abraham Baldwin [Ga.].

PETITIONS AGAINST SLAVERY—Continued

HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1790

MR. TUCKER was surprised to see another memorial on the same subject, and that signed by a man who ought to have known the Constitution better. He thought it a mischievous attempt as it respected the persons in whose favor it was intended. It would buoy them up with hopes, without a foundation, and as they could not reason on the subject, as more enlightened men would, they might be led to do what they would be punished for, and the owners of them, in their own defence, would be compelled to exercise over them a severity they were not accustomed to. Do these men expect a general emancipation of slaves by law? This would never be submitted to by the Southern States without a civil war. Do they mean to purchase their freedom? He believed their money would fall short of the price.

MR. BURKE saw the disposition of the House, and he feared it would be referred to a committee, maugre all their opposition; but he must insist that it prayed for an unconstitutional measure; did it not desire Congress to interfere and abolish the slave trade, while the Constitution expressly stipulates that Congress shall exercise no such power? He was certain the commitment would sound an alarm and blow the trumpet of sedition in the Southern States.

MR. SCOTT.—I cannot entertain a doubt but the memorial is strictly agreeable to the Constitution; it respects a part of the duty particularly assigned to us by that instrument, and I hope we may be inclined to take it into consideration. We can, at present, lay our hands upon a small duty of ten dollars; I would take this, and if it is all we can do we must be content; but I am sorry that the framers of the Constitution did not go further and enable us to interdict the traffic entirely; for I look upon the slave trade to be one of the most abominable things on earth; and, if there was neither God nor devil, I should oppose it upon the principles of humanity and the law of nature. The petitioners view the subject in a religious light, but I do not stand in need of religious motives to induce me to reprobate the traffic in human flesh; other considerations weigh with me to support the commitment of the memorial, and to support every constitutional measure likely to bring about its total abolition. Perhaps, in our legislative capacity, we can go no further than to impose a duty of ten dollars, but I do not know how far I might go if I was one of the judges of the United States, and those people were to come before me and claim their emancipation; but I am sure I would go as far as I could.

MR. JACKSON differed with the gentleman last up, and supposed the master had a qualified property in his slave. He said the contrary doctrine would go to the destruction of every species of personal service. The gentleman said he did not stand in need of religion to induce him to reprobate slavery, but if he is guided by that evidence upon which the Christian system is founded he will find that religion is not against it. He will see, from Genesis to Revelations, the current setting strong that way. There never was a government on the face of the earth but what permitted slavery. The purest sons of freedom in the Grecian republics, the citizens of Athens and Lacedæmon, all held slaves. On this principle, the nations of Europe are associated; it is the basis of the feudal system. But, suppose all this to have been wrong, let me ask the gentleman if it is good

prayed us to establish an order of nobility or a national religion.

MR. W. SMITH, of South Carolina, insisted that it was not in the power of the House to grant the prayer of the petition, which went to the total abolishment of the slave trade, and it was therefore unnecessary to commit it. If gentlemen can assign no good reason for the measure, they will not support it when they are told that it will create jealousies and alarm in the Southern States; for I can assure them that there is no point on which they are more jealous and suspicious than on a business with which they think the Government has nothing to do.

When we entered into this confederacy we did it from political, not from moral, motives, and I do not think my constituents want to learn morals from the petitioners; I do not believe they want improvement in their moral system; if they do, they can get it at home.

The gentleman from Georgia has justly stated the jealousy of the Southern States. On entering into this Government they apprehended that the other States, not knowing the necessity the citizens of the Southern States were under to hold this species of property, would, from motives of humanity and benevolence, be led to vote for a general emancipation; and, had they not seen that the Constitution provided against the effect of such a disposition, I may be bold to say they never would have adopted it.

We look upon this measure as an attack upon the palladium of the property of our country; it is therefore our duty to oppose it by every means in our power. Gentlemen should consider that when we entered into a political connection with the other States this property was there; it was acquired under a former government, conformably to the laws and Constitution, therefore anything that will tend to deprive them of that property must be an *ex post facto* law, and, as such, is forbidden by our political compact.

I said the States would never have entered into the confederation unless their property had been guaranteed to them, for such is the state of agriculture in that country that without slaves it must be abandoned. Why will these people, then, make use of arguments to induce the slave to turn his hand against his master? We labor under difficulties enough from the ravages of the late war. A gentleman can hardly come from that country with a servant or two, either to this place [New York] or Philadelphia, but there are persons trying to seduce

policy to bring forward a business at this moment likely to light up the flame of civil discord; for the people of the Southern States will resist one tyranny as soon as another. The other parts of the continent may bear them down by force of arms, but they will never suffer themselves to be divested of their property without a struggle. The gentleman says if he was a Federal judge he does not know to what length he would go in emancipating these people; but I believe his judgeship would be of short duration in Georgia, perhaps even the existence of such a judge might be in danger.

MR. BALDWIN was sorry the subject had ever been brought before Congress, because it was of a delicate nature as it respected some of the States. Gentlemen who had been present at the formation of this Constitution could not avoid the recollection of the pain and difficulty which the subject caused in that body. The members of the Southern States were so tender upon this point that they had well-nigh broken up without coming to any determination; however, from the extreme desire of preserving the Union and obtaining an efficient Government, they were induced mutually to concede, and the Constitution jealously guarded what they agreed to. If gentlemen look over the footsteps of that body, they will find the greatest degree of caution used to imprint them so as not to be easily eradicated; but the moment we go to jostle on that ground, I fear we shall feel it tremble under our feet. Congress have no power to interfere with the importation of slaves beyond what is given in the ninth section of the first article of the Constitution; everything else is interdicted to them in the strongest terms. If we examine the Constitution we shall find the expressions relative to this subject cautiously expressed and more punctiliously guarded than any other part: "The migration or importation of such persons shall not be prohibited by Congress." But lest this should not have secured the object sufficiently it is declared in the same section "that no capitation or direct tax shall be laid, unless in proportion to the census"; this was intended to prevent Congress from laying any special tax upon negro slaves, as they might, in this way, so burthen the possessors of them as to induce a general emancipation. If we go on to the fifth article we shall find the first and fifth clauses of the ninth section of the first article restrained from being altered before the year 1808.

Gentlemen have said that this petition does not pray for an abolition of the slave trade. I think, sir, it prays for nothing else, and therefore we have no more to do with it than if it

his servants to leave him; and, when they have done this, the poor wretches are obliged to rob their master in order to obtain a subsistence; all those, therefore, who are concerned in this seduction are accessories to the robbery.

The reproach which they [the abolitionists] cast upon the owners of negro property is the want of humanity. I believe the proprietors have as much humanity as persons in any part of the continent, and are as conspicuous for their good morals as their neighbors. The memorial of the Quakers relates to a matter in which they are no more interested than any other sect, and can only be considered as a piece of advice, which it is not customary to refer to a committee; but if it is supposed to pray for what they think a moral purpose, is that sufficient to induce us to commit it? What may appear a moral virtue in their eyes may not be so in reality. I have heard of a sect of Shaking Quakers, who, I presume, suppose their tenets of a moral tendency. I am informed one of them forbids to intermarry. Now, if these people were to petition Congress to pass a law prohibiting matrimony would gentlemen agree to refer such a petition? I think if they would reject one of that nature as improper they ought also to reject this.

MR. PAGE was in favor of the commitment. He lived in a State which had the misfortune of having in her bosom a great number of slaves; he held many of them himself, and was as much interested in the business as any gentleman in South Carolina or Georgia, yet, if he was determined to hold them in eternal bondage he should feel no uneasiness or alarm on account of the present measure, because he should rely upon the virtue of Congress that they would not exercise any unconstitutional authority.

MR. MADISON.—The debate has taken a serious turn, and it will be owing to this alone if an alarm is created; for, had the memorial been treated in the usual way, it would have been considered as a matter of course and a report might have been made so as to have given general satisfaction. If there was the slightest tendency by the commitment to break in upon the Constitution, he would object to it; but he did not see upon what ground such an event was to be apprehended. The petition prayed, in general terms, for the interference of Congress, so far as they were constitutionally authorized: but even if its prayer was, in some degree, unconstitutional, it might be committed. He admitted that Congress is restricted by the Constitution from taking measures to abolish the slave trade; yet there are a variety of ways by which it could countenance the

abolition, and regulations might be made in relation to the introduction of them into the new States to be formed out of the Western Territory. He thought the object well worthy of consideration.

MR. GERRY thought the interference of Congress fully compatible with the Constitution, and could not help lamenting the miseries to which the natives of Africa were exposed by this inhuman commerce. He never contemplated the subject without reflecting what his own feelings would be, in case himself, his children, or friends were placed in the same deplorable circumstances. He then adverted to the flagrant acts of cruelty which are committed in carrying on that traffic; and asked whether it can be supposed that Congress has no power to prevent such abuses? Congress can, agreeably to the Constitution, lay a duty of ten dollars on imported slaves; they may do this immediately. He made a calculation of the value of the slaves in the Southern States, and supposed they may be worth ten millions of dollars. Congress have a right, if they see proper, to make a proposal to the Southern States to purchase the whole of them, and their resources in the Western Territory might furnish them with the means. He did not intend to suggest a measure of this kind; he only instanced these particulars to show that Congress certainly has a right to intermeddle in the business.

The memorials were referred to committee by a vote of 43 to 14.

On March 16 the committee made its report, which was that the Constitution expressly restrained the general Government from prohibiting the importation of slaves until 1808, and, by fair construction, prohibited Congress from interfering before that date with the emancipation of slaves, or the regulation of slaves by the States; the committee trusted, however, that the various legislatures would revise their laws from time to time to ameliorate the condition of the slaves.

The committee went on to declare that Congress had authority to lay a tax not exceeding ten dollars on each slave imported, and to make provision for the humane treatment of the slaves in passage, as well as to prohibit foreigners from fitting out slave ships in a port of the United States. Lastly, they advised that Congress inform the memorialists that, wherever it had jurisdiction—

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enemy with provisions; they were guides and conductors to their armies; and whenever the American army came into their neighborhood they found themselves in an enemy's country.

Mr. Burke was proceeding in this strain when he was interrupted by being called to order. A warm altercation ensued.

MR. SMITH.—The memorial from the Quakers contained, in his opinion, a very indecent attack on the character of those States which possess slaves. It reprobates slavery as bringing down reproach on the Southern States, and expatiates on the detestation due to the licentious wickedness of the African trade, and the inhuman tyranny and blood guiltiness inseparable from it. He could not but consider it as calculated to fix a stigma of the blackest nature on the State he had the honor to represent, and to hold its citizens up to public view as men divested of every principle of honor and humanity. Considering it in that light, he felt it incumbent on him not only to refute those atrocious calumnies but to resent the improper language made use of by the memorialists. This application came with the worst grace possible from the Quakers, who professed never to intermeddle in politics but to submit quietly to the laws of the country.

If these were really their sentiments, why did not they abide by them? Why did not they leave that which they call God's work to be managed by himself? Those principles should instruct them to wait with patience and humility for the event of all public measures, and to receive that event as the Divine Will. It was difficult to credit their pretended scruples; because, while they were exclaiming against the Mammon of this world, they were hunting after it with a step steady as time and an appetite keen as the grave.

The memorial from the Pennsylvania Society applied, in express terms, for an emancipation of slaves, and the report of the committee appeared to hold out the idea that Congress might exercise the power of emancipating after the year 1808; for it said that Congress could not emancipate slaves prior to that period. He remarked that either the power of manumission still remained with the several States or it was exclusively vested in Congress; for no one would contend that such a power would be concurrent in the several States and the United States. He then showed that the State governments clearly retained all the rights of sovereignty which they had before

tion in matters concerning slavery, it would be exercised on the principles of "justice, humanity, and good policy."

This report was debated from March 17 to 23, when it was passed, with amendments eliminating the suggestion to the State legislatures that Congress had the power to emancipate slaves after 1808 and the final notice to the memorialists. The vote upon entering on the Journal the original report of the committee, and the amended report, was passed by 29 to 25 votes.

The chief speakers in the debate were, in favor of the original report: Thomas Hartley [Pa.] and Elias Boudinot [N. J.]; against it, Alexander White [Va.], Ædamus Burke and William L. Smith, of South Carolina.

PETITIONS AGAINST SLAVERY—Concluded

HOUSE OF REPRESENTATIVES, MARCH 17-23, 1790

MR. WHITE moved the amendments to the report. Congress had no right to interfere with the States in their regulations of slaves. He did not, however, anticipate the difficulties from a total prohibition which some gentlemen seem to apprehend—and, if Congress had it in their power to interdict this business at the present moment, he did not think the essential interests of the Southern States would suffer. Twenty years ago he supposed the idea he now suggested would have caused universal alarm. Virginia, however, about twelve years since prohibited the importation of negroes from Africa, and the consequences apprehended never were realized; on the contrary, the agriculture of that State was never in a more flourishing situation.

MR. HARTLEY reprobated the illiberal treatment which the memorialists had received, and asserted that they were friends to the Constitution, and that on the present occasion they came forward from the most laudable motives, from a wish to promote the happiness of mankind, that their conduct, so far from meriting censure, deserved and would receive the applause of the civilized world.

MR. BURKE animadverted with great freedom on the past and present conduct of the Quakers. He denied that they were the friends of freedom; he said that during the late war they were for bringing this country under a foreign yoke; they descended to the character of spies; they supplied the

the establishment of the Constitution, unless they were exclusively delegated to the United States; and this could only exist where the Constitution granted, in express terms, an exclusive authority to the Union, or where it granted in one instance an authority to the Union and in another prohibited the States from exercising the like authority, or where it granted an authority to the Union to which a similar authority in the States would be repugnant.

He applied these principles to the case in question; and asked whether the Constitution had, in express terms, vested the Congress with the power of manumission? Or whether it restrained the States from exercising that power? Or whether there was any authority given to the Union with which the exercise of this right by any State would be inconsistent? If these questions were answered in the negative, it followed that Congress had not an exclusive right to the power of manumission. Had it a concurrent right with the States? No gentleman would assert it, because the absurdity was obvious. For a State regulation on the subject might differ from a Federal regulation; in which case one or the other must give way. As the laws of the United States were paramount to those of the individual States, the Federal regulations would abrogate those of the States, consequently the States would thus be divested of a power which it was evident they now had and might exercise whenever they thought proper. But admitting that Congress had authority to manumit the slaves in America, and were disposed to exercise it, would the Southern States acquiesce in such a measure without a struggle? Would the citizens of that country tamely suffer their property to be torn from them? Would even the citizens of the other States which did not possess this property desire to have all the slaves let loose upon them? Would not such a step be injurious even to the slaves themselves? It was well known that they were an indolent people, improvident, averse to labor; when emancipated they would either starve or plunder. Nothing was a stronger proof of the absurdity of emancipation than the fanciful schemes which the friends to the measure had suggested. One was to ship them out of the country and colonize them in some foreign region. This plan admitted that it would be dangerous to retain them within the United States after they were manumitted; but surely it would be inconsistent with humanity to banish these people to a remote country, and to expel them from their native soil, and from places to which they had a local attachment. It would be no less repugnant to the principles of free-

dom not to allow them to remain here if they desired it. How could they be called freemen if they were, against their consent, to be expelled the country? Thus did the advocates for emancipation acknowledge that the blacks, when liberated, ought not to remain here to stain the blood of the whites by a mixture of the races.

Another plan was to liberate all those who should be born after a certain limited period. Such a scheme would produce this very extraordinary phenomenon, that the mother would be a slave and her child would be free. These young emancipated negroes, by associating with their enslaved parents, would participate in all the debasement which slavery is said to occasion. But, allowing that a practicable scheme of general emancipation could be devised, there can be no doubt that the two races would still remain distinct. It is known from experience that the whites had such an idea of their superiority over the blacks that they never even associated with them; even the warmest friends to the blacks kept them at a distance and rejected all intercourse with them. Could any instance be quoted of their intermarrying? The Quakers asserted that nature had made all men equal and that the difference of color should not place negroes on a worse footing in society than the whites; but had any of them ever married a negro, and would any of them suffer their children to mix their blood with that of a black? They would view with abhorrence such an alliance.

Mr. Smith then read some extracts from Mr. Jefferson's "Notes on Virginia," proving that negroes were by nature an inferior race of beings, and that the whites would always feel a repugnance at mixing their blood with that of the blacks.

Thus that respectable author who was desirous of countenancing emancipation was, on a consideration of the subject, induced candidly to avow that the difficulties appeared insurmountable. The friends to manumission had said that by prohibiting the further importation of slaves and by liberating those born after a certain period a gradual emancipation might take place, and that in process of time the free white world would be extinct and there would be none but whites. He was at a loss to learn how that consequence would result. If the blacks did not intermarry with the whites they would remain black to the end of time; for it was not contended that liberating them would whiten them; if they would intermarry with the whites, then the

negroes never improve in talents, never grow rich, and continue to associate with the people of their own color. This is owing either to the natural aversion the whites entertain toward them, and an opinion of the superiority of their race, or to the natural attachment the blacks have to those of their own color; in either case it proves that they will, after manumission, continue a distinct people and have separate interests. They are an inferior race even to the Indians.

But some persons have been of opinion that if the further importation of slaves could be prohibited there would be a gradual extinction of the species. That would be impossible, because they increase; to occasion an extinction, Congress must prohibit all intercourse between the sexes; this would be an act of humanity they would not thank us for, nor would they be persuaded that it was for their own good; or Congress must, like Herod, order all the children to be put to death as soon as born. If, then, nothing but evil would result from emancipation, under the existing circumstances of the country, why should Congress air at all in the business, or give any countenance to such dangerous applications? We have been told that the Government ought to manifest a disposition inimical to this practice which the people reprobate. If some citizens, from misinformation and ignorance, have imbibed prejudices against the Southern States, if ill-intentioned authors have related false facts and gross misrepresentations tending to traduce the character of a whole State and to mislead the citizens of other States, is that a sufficient reason why a large territory is to be depopulated, merely to gratify the wish of some misinformed individuals?

This is not an object of general concern, for I have already proved that it does not weaken the Union; but, admit that it did, will the abolition of slavery strengthen South Carolina? It can only be cultivated by slaves; the climate, the nature of the soil, ancient habits, forbid the whites from performing the labor. Experience convinces us of the truth of this. Great Britain made every attempt to settle Georgia by whites alone and failed, and was compelled at length to introduce slaves; after which that State increased very rapidly in opulence and importance. If the slaves are emancipated they will not remain in that country—remove the cultivators of the soil and the whole of the low country, all the fertile rice and indigo swamps, will be deserted and become a wilderness. In a short time the Northern and Eastern States will supply us with their manufactures; if you depopulate the rich low country of South

white race would be extinct, and the American people would be all of the mulatto breed. In whatever light, therefore, the subject was viewed the folly of emancipation was manifest. He trusted these considerations would prevent any further application to Congress on this point, and would so far have weight with the committee as to cause them to reject the clause altogether, or at least to declare in plain terms that Congress has no right whatever to manumit the slaves of this country.

The toleration of slavery in the several States was a matter of internal regulation and policy, in which each State had a right to do as she pleased, and no other State had any right to intermeddle with her policy or laws. The legislature of South Carolina had prohibited theatrical representations, deeming them improper; but they did not trouble Congress with an application to abolish them in New York and Philadelphia. The Southern citizens might also consider the toleration of Quakers as an injury to the community because in time of war they would not defend their country from the enemy, and in time of peace they were interfering in the concerns of others and doing everything in their power to excite the slaves in the Southern States to insurrection; notwithstanding which the people of those States had not required the assistance of Congress to exterminate the Quakers.

But he could not help observing that this squeamishness was very extraordinary at this time. The Northern States knew that the Southern States had slaves before they confederated with them. If they had such an abhorrence for slavery, why did they not cast us off and reject our alliance? The truth was that the best informed part of the citizens of the Northern States knew that slavery was so ingrafted into the policy of the Southern States that it could not be eradicated without tearing up by the roots their happiness, tranquillity, and prosperity; that, if it were an evil, it was one for which there was no remedy, and, therefore, like wise men, they acquiesced in it. We, on the other hand, knew that the Quaker doctrines had taken such deep root in some of the States that all resistance to them must be useless: we therefore made a compromise on both sides, we took each other with our mutual bad habits and respective evils, for better for worse; the Northern States adopted us with our slaves and we adopted them with their Quakers. There was then an implied compact between the Northern and Southern people that no step should be taken to injure the property of the latter or to disturb their tranquillity.

The negroes would not be benefited by emancipation; free

Carolina and Georgia, you will give us a blow which will immediately recoil on yourselves.

It has been said that the toleration of slavery brings down reproach on America. It only brings reproach on those who tolerate it, and we are ready to bear our share. We found



BLACK AND WHITE SLAVES

From the collection of the New York Historical Society

slavery ingrafted in the very policy of the country when we were born, and we are persuaded of the impolicy of removing it; if it be a moral evil, it is like many others which exist in all civilized countries and which the world quietly submits to.

Another objection is that slavery vitiates and debases the mind of the owner of this sort of property. Where, he asked, is the proof of this allegation? Do the citizens of the Southern States exhibit more ferociousness in their manners, more barbarity in their dispositions, than those of the other States? Are crimes more frequently committed there?

Much had been said of the cruel treatment of slaves in the Southern States; he denied the fact from experience and accurate information, and believed in his conscience that the slaves in South Carolina were a happier people than the lower order of whites in many countries he had visited.

Some have said that slavery is unnecessary; so far from it that several essential manufactures depend on it. Indigo, cochineal, and various other dyeing materials which are the produce of the West Indies could be raised only by slaves; the

great staple commodity of the South would be annihilated without the labor of slaves. It is well known that when the African slaves were brought to the coast for sale it was customary to put to death all those who were not sold; the abolition of the slave trade would therefore cause the massacre of the people.

The cruel mode of transportation was another motive to this abolition; but it was to be presumed that the merchants would so far attend to their own interests as to preserve the lives and health of the slaves on the passage. All voyages must be attended with inconveniences, and those from Africa to America not more than others. As to their confinement on board, it was no more than was necessary; the room was full as much as was allotted in ships of war to British seamen. And in cases of disobedience, the captain had a right, for slight offences, to inflict on these sailors corporal punishment without the intervention of a court-martial.

Having thus removed the force of the observations which have been advanced against the toleration of slavery by a misguided and misinformed humanity, I shall only add that I disapprove of the whole of the report; because it either states some power sufficiently expressed in the Constitution which is unnecessary or it sets forth some power which I am clear Congress do not possess.

Mr. BOURNE said: On resolutions declaring that Congress had not power to prohibit the importation of slaves into any State, or to interfere in their emancipation or internal government, long argument had been used; also much precious time had been spent to prove the lawfulness of the African trade in slaves. This, indeed, was an arduous task, in this day of light and knowledge. Not only the practice of ancient nations and that of all modern Europeans had been brought into view, but even the sacred Scriptures had been quoted to justify this iniquitous traffic. It is true that the Egyptians held the Israelites in bondage for four hundred years, and Mr. B. doubted not but much the same arguments as had been used on the present occasion had been urged with great violence by the King of Egypt, whose heart, it is expressly said, had been extremely hardened, to show why he should not consent to let the children of Israel go, who had now become absolutely necessary to him; but gentlemen cannot forget the consequences that followed; they were delivered by a strong hand and stretched out arm, and it ought to be remembered that the Almighty Power that accomplished their deliverance is the same yesterday, to-day, and

forever. The New Testament has afforded a number of texts to countenance this doctrine, in the gentleman's opinion. One would have imagined that the uniform tenor of the Gospel that breathes a spirit of love and universal philanthropy to our fellow creatures—that commands our love to our neighbor to be measured by our love to ourselves—that teaches us that whatsoever we would that men should do to us, to do so to them—would have prevented this misapplication. Surely the gentleman overlooked the prophecy of St. Peter, where he foretells that, among other damnable heresies, "through covetousness shall they, with feigned words, make merchandise of you."

When gentlemen attempt to justify this unnatural traffic, or to prove the lawfulness of slavery, they should advert to the genius of our Government and the principles of the Revolution. By the declaration of Congress, in 1775, setting forth the causes and necessity of taking up arms, they say: "If it was possible for men who exercise their reason to believe that the Divine Author of our existence intended a part of the human race to hold an absolute property in and an unbounded power over others, marked out by His infinite goodness and wisdom as the objects of a legal domination never rightfully resistible, however severe and oppressive, the inhabitants of these colonies might at least require from the Parliament of Great Britain some evidence that this dreadful authority over them had been granted to that body." And, by the Declaration of Independence in 1776, Congress declare: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

This, then, is the language of America in the day of distress. Mr. Chairman, I would not be understood to contend the right of Congress at this time to prohibit the importation of slaves. Whatever might have been the principles of the Revolution or the genius of the Government, by the present Constitution we are clearly and positively restrained till the year 1808, and I am sure that no gentleman in this committee would have the most distant wish to wound this instrument of our connection.

But there is a wide difference between justifying this ungenerous traffic and supporting a claim to property vested at the time of the Constitution and guaranteed thereby. Besides, it would be inhumanity itself to turn these unhappy people loose to murder each other or to perish for want of the neces-

saries of life. I never was an advocate for so extravagant a conduct.

Many arguments were pointed against the danger of our emancipating these slaves, or even holding up an idea that we had a power so to do, and much time has been taken up to disprove this right in Congress. As no claim of this kind is contended for, and the resolutions already passed expressly contradict it, I shall make no further observations on them.

But the characters of the signers of these memorials are called in question as an argument against the adoption of the resolution on the table. One of these memorials was signed by the society of people called Quakers; the other by Dr. Franklin, as president of a private society in Philadelphia. The indiscriminate abuse that has been thrown out against the Quakers, without distinction, has not comported with the honor or dignity of this House. Not only their characters, but their very names have been called upon, and private anecdotes relating to individuals been mentioned on the floor. With many of the Quakers I have long lived in the habits of friendship, and can testify to the respectability of their characters and the regularity of their lives. Their conduct in the late war has been arraigned, and they have been condemned in the lump. I had the honor of serving the United States at the commencement of the war as commissary-general of prisoners.

Congress not being able to afford them supplies, these unhappy men in this town¹ were reduced to the very depths of distress; without food or raiment, without blankets or firing, they suffered everything that human nature could bear. In this situation many of the Quakers of this city exercised such humanity toward them as did honor to human nature. The miserable prisoner not only felt the happy effects of their exertions in his favor, but participated in their money, their food and clothing. Nay, such were the jealousies created by this conduct, in the British army here, that an armed force entered the house of one of them, seized his books, and, though a man of great property and large commercial dealings, on finding that he had loaned large sums of money to our distressed prisoners, he was turned out of their lines, and with his family was a refugee during the whole of the war afterward, separated from his business and property.

Where is the denomination among us that did not furnish opponents to our glorious Revolution? Were not hundreds of Presbyterians, Episcopalians, and almost of every other denom-

¹ Congress was in session in New York City.

nation among our enemies? What denominations formed the thousands of new levies that endeavored to deluge our country in blood? On the other hand, were not a Greene and a Mifflin furnished from the Society of the Quakers?

In short, I rejoice to say that our cause was not carried on by fanaticism or religious zeal, but a generous struggle for the rights of human nature. Then why all this abuse of this particular sect, without discrimination? Can any solid argument against the resolution on the table arise from a conduct of this kind? I am at a loss to know what other argument has been used to show the impropriety of the resolution before you. It goes to declare the power of Congress to prohibit foreigners from fitting out vessels in our ports to supply foreigners with slaves from Africa. For my part, I think it a prudent, a humane, and a constitutional resolution. It will render further interference on this subject, perhaps, unnecessary when it is known that the power of Congress extends to remedy the evil. They will hardly venture to risk a voyage that may be ruined before its being finished.

On the whole, sir, I have heard nothing to convince me of the impropriety of the present resolution. I shall therefore vote against striking it out.

It was moved that the sixth article be struck out; but the motion was negatived. The committee of the whole then agreed to the proposition. The seventh article was on motion struck out.

THE FUGITIVE LAW

In February, 1792, Congress had passed without debate and, in the House of Representatives with but seven votes in the negative, a Fugitive Law whereby any person "held to labor" in one State or Territory, fleeing to another, might be seized by the one "to whom such labor is due," or his agent, and taken before a Federal judge or local magistrate; and, upon proof of the owner's claim, should be given over by the said authority to the claimant with a certificate warranting the removal of the fugitive to the State or Territory whence he had fled. A person who concealed the fugitive from the claimant, resisted his arrest, or rescued him after arrest would be subject to a fine of \$500. The law did not be-

come a subject of discussion in Congress until January 30, 1797, when John Swanwick [Pa.] presented a petition to Congress for certain freedmen of North Carolina against the operation of the law in their case. They averred that the legislature of North Carolina had recently passed an act permitting negroes who had been freed by their masters to be seized and sold back into slavery, in consequence of which act the petitioners had fled to the North, leaving behind them the property which they had accumulated, their gainful occupations, and, in some cases, their families, and were experiencing poverty and distress in their exile, undergoing the while the fear of recapture, a fate which had befallen one of their fellow fugitive freedmen.

The speakers in favor of receiving the petition were John Swanwick and Samuel Sitgreaves of Pennsylvania, George Thacher and Joseph B. Varnum of Massachusetts, and Aaron Kitchell of New Jersey; those opposed to receiving it were Thomas Blount and Nathaniel Macon of North Carolina, James Madison and John Heath of Virginia, and William L. Smith of South Carolina.

PETITION OF FUGITIVE FREEDMEN

HOUSE OF REPRESENTATIVES, JANUARY 30, 1797

MR. SWANWICK said he hoped the petition would be referred to a select committee.

MR. BLOUNT hoped it would not even be received by the House. Agreeably to a law of the State of North Carolina, he said they were slaves, and could, of course, be seized as such.

MR. THACHER thought the petition ought to be referred to the Committee on the Fugitive Law. He conceived the gentleman much mistaken in asserting these petitioners to be absolute slaves. They state that they *were* slaves, but their masters manumitted them, and that their manumissions were sanctioned by a law of that State, but that a subsequent law of the same State subjected them to slavery; and, if even there was a law that allowed them to be taken and sold into slavery again, he could not see any propriety in refusing their petition in that House—they certainly are free people. It appeared they were taken under the Fugitive Act, which he thought ought not to

THE SLAVE TRADE

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tend; but he thought this case had no claim on their attention. Yet, if it did not come within the purview of the legislative body, he thought it might be suffered to lie on the table. He thought it a judicial case, and could obtain its due in a court of appeal in that State. If they are free by the laws of North Carolina, they ought to apply to those laws and have their privilege established. If they are slaves, the Constitution gives them no hopes of being heard here. A law has been passed to prevent the owners of those slaves emancipating them; it is therefore impossible that any relief can be granted. The petitioners are under the laws of North Carolina, and those laws cannot be the interpreters of the laws of the United States.

MR. SITGREAVES said he was not prepared to deny that this petition is in the situation the gentleman from Virginia [Mr. Madison] states; nor was he prepared to prove that it came under the power of the general Government; but he could see no kind of reason why it should not be sent to a committee who should examine the case and report whether it required legislative interference or whether it was a subject of judicial authority in the country whence the petitioners came. If it should be found to be of a judicial nature, the committee would report so, and the House would honorably refuse it.

MR. W. SMITH said the practice of a former time, in a similar case, was that the petition was sealed up and sent back to the petitioners, not being allowed even to remain on the files of the office. This method, he said, ought to be pursued with respect to the present petition. It was not a matter that claimed the attention of the legislature of the United States. He thought it of such an improper nature as to be surprised any gentleman would present a petition of the kind. These men are slaves, and, he thought, not entitled to attention from that body; to encourage slaves to petition the House would have a tendency to invite continual applications. Indeed, it would tend to spread an alarm throughout the Southern States; it would act as an "entering wedge," whose consequences could not be foreseen. This is a kind of property on which the House has no power to legislate. He hoped it would not be committed at all; it was not a proper subject for legislative attention. He was not of the opinion of some gentlemen that the House were bound to sit on every question recommended to their notice. He thought particular attention ought to be paid to the lateness of the session; if this subject were to be considered, too much time of the House would be devoured which was much wanted on important business.

affect them; they now came and prayed the House so to model that Fugitive Act as to prevent its affecting persons of their description. He therefore saw great propriety in referring their petition to the committee appointed to amend that act in another part; they could as well consider its relation to the present case. He could not see how there would be a propriety in rejecting their petition; they had an undoubted right to petition the House and to be heard.

MR. SWANWICK was surprised at the gentleman from North Carolina [Mr. Blount] desiring to reject this petition; he could not have thought, nor could he indulge the suspicion now, that the gentleman was so far from acknowledging the rights of man as to prevent any class of men from petitioning. If men were aggrieved, and conceived they have claim to attention, petitioning was their sacred right, and that right should never suffer innovation; whether the House ought to grant was another question.

If the circumstance respecting these people was as they stated, their case was very hard. He animadverted on the atrocity of that reward of ten dollars offered for one of them if taken alive, but that fifty should be given if found dead, and no questions asked. Was not this, he said, encouragement to put a period to that man's existence? Horrid reward! Could gentlemen hear it and not shudder?

MR. BLOUNT said the gentleman last up was mistaken in calling the petitioners free men; the laws of North Carolina, as he observed before, did not suffer individuals to emancipate their slaves, and he should wish to know what evidence there was to prove these men free, and, except that was proved, the House had no right to attend to the petition.

MR. SITGREAVES, in answer to the gentleman last up, said he would reverse his question, and ask what evidence he had to prove that these men are not freemen; can he prove they are slaves? Had they not an equal right to be heard with other petitioners?

MR. HEATH was clearly convinced these people were slaves, and therefore hoped their petition would lie on the table. He would remind the gentleman that, if they undertook this business, they would soon have petitions enough of the same kind, and public business would be thereby prevented. It appeared to him to be more within the jurisdiction of the legislature of that State; indeed, the United States had nothing to do with it.

MR. MADISON said he should be sorry to reject any petition whatever in which it became the business of the House to at-

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MR. THACHER said the gentleman from North Carolina [Mr. Blount] is of the opinion that, these people being slaves, the House ought not to pay attention to their prayer. That the House should not receive a petition without an evidence to prove it was from a free man was quite a new system of conduct which he had never seen the House practice, and hoped he never should see. This was language which opposed the constitutional freedom of every State where the declaration of rights had been made; they all declare that every man is born equally free, and that each has an equal right to petition if aggrieved—this doctrine he never heard objected to.

The gentlemen from Virginia [Mr. Madison and Mr. Heath] had said it was a judicial and not a legislative question; they say the petition proven it, and that it ought not to be attended to. Mr. T. said he saw no proof whatever of the impropriety of the House receiving it. There might be some judicial question growing out of the case; but that was no reason, because it might possibly undergo a judicial course, that the general Government were not to be petitioned.

The gentleman from South Carolina [Mr. Smith] had said "that this was a kind of property on which the House could not legislate"; but he would answer this was a kind of property on which they were bound to legislate. The Fugitive Act could prove this authority; if petitions were not to be received, they would have to legislate in the dark. It appeared plainly that these men were manumitted by their masters; and because a number of men who called themselves legislators should, after they had the actual enjoyment of their liberty, come forward and say that these men should not remain at liberty, and actually authorize their recaptivity, he thought it exceedingly unjust to deprive them of the right of petitioning to have their injuries redressed. These were a set of men on whom the Fugitive Law had no power, and he thought they claimed protection under the power of that House, which always ought to lean toward freedom. Though they could not give freedom to slaves, yet he hoped gentlemen would never refuse to lend their aid to secure freemen in their rights against tyrannical imposition.

MR. MACON said no man wished to encourage petitions more than himself and no man had considered this subject more. These men could not receive any aid from the general Government, but by application to the State justice would be done. Trials of this kind had very frequently been brought on in all the different courts of that State, and had very often ended

in the freedom of slaves; the appeal was fair, and justice was done.

MR. VARNUM said the petitioners stated themselves to be freemen, and he did not see any opposition of force to convince the House they were not; surely it could not be said that color alone should designate them as slaves. He hoped the House would take all possible care that freemen should not be made slaves; to be deprived of liberty was more important than to be deprived of property. He could not think why gentlemen should be against having the fact examined; if it appears that they are slaves, the petition will of course be dismissed, but if it should appear they are free, and receive injury under the Fugitive Act, the United States ought to amend it so that justice should be done.

MR. KITCHELL said that the question was not now whether the petitioners are or are not slaves, but it is on a law of the United States. They assert that this law does not injuriously to them; the question is, therefore, whether a committee shall be appointed to inquire into the improper force of this law on the case of these men; if they are freemen, he said, they ought not to be sent back from the most distant part of the United States to North Carolina, to have justice done them, but they ought to receive it from the general Government who made the law they complain of.

On the question for receiving the petition being put, —it was negatived—ayes 33, noes 50.

Another petition relative to slavery was presented to the House on January 2, 1800, this time against the Fugitive Law and the slave trade, praying for their repeal. The petitioners were free negroes of Philadelphia, too ignorant to sign their names, affixing their marks instead, and therefore it was evident, said those opposed to receiving the memorial, that white Abolitionists were the real movers in the matter.

This debate is notable because it contains the first threat that the South would secede if the abolition agitation were continued. The maker of the threat was the fiery John Rutledge, Jr., of South Carolina. In his speech he referred to the San Domingo insurrection, which thereafter became a stock illustration of the pro-slavery orators.

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alternative I deprecate very much; that is, that we are able to take care of ourselves, and, if driven to it, we will take care of ourselves.

Samuel Goode [Va.] moved:

That the parts of the said petition which invite Congress to legislate upon subjects from which the general Government is precluded by the Constitution have a tendency to create disquiet and jealousy and ought, therefore, to receive no encouragement or countenance from this House.

The motion was adopted by a vote of—yeas 85, nay 1 [Mr. Thacher].

The question of entering into concert with foreign nations for a *humanitarian* purpose was brought forward in the Senate early in the session of 1817-1818 by a petition from the Society of Friends at Baltimore, asking that the Government adopt laws more effectually to prevent the slave trade from being carried on by citizens of the United States under foreign flags (Spanish and Portuguese), and also take measures, in concert with other nations (Great Britain in particular) to secure the entire abolition of the traffic.

Senator James Burrill, Jr., of Rhode Island, moved that the petition be referred to a committee to inquire into the expediency of the legislation and action which it proposed.

He was supported in his motion by Rufus King [N. Y.], David L. Morrill [N. H.]; the motion was opposed by George M. Troup [Ga.], George W. Campbell [Tenn.], and James Barbour [Va.].

The motion was debated on January 2 and 12, 1818, and carried by a vote of 17 to 16.

CONCERT WITH FOREIGN NATIONS TO SUPPRESS SLAVE TRADE

SENATE, JANUARY 2-12, 1818

SENATOR TROUP thought the petition a most extraordinary proposition, and asserted that, according to his apprehension, no measure could be adopted more replete with danger to the

JOHN RUTLEDGE, JR., M.C.

MR. RUTLEDGE thought it a little extraordinary that, when gentlemen from some parts of the Union were positively assured that very serious, nay, dreadful, effects must be the inevitable consequences of their discussion on this subject, they still would persist. He used strong words, he said, because no others would be appropriate. Gentlemen recommended the subject to be calmly argued. Would gentlemen feel calm if measures were taken to destroy most of their property? Would calmness be consistent if entering wedges were prepared to ruin the property of whole estates? Yes, we deem this as an entering wedge to an inevitable loss of our property, if persisted in.

Three emissaries from St. Domingo appeared in the hall of the French Convention, demanding the emancipation of their species from slavery. The convention were told it would operate as an entering wedge that would go to the destruction of property and the loss of one of the finest islands in the world; that it would be murderous in the extreme; that it would open scenes which had never been practised since the destruction of Carthage; that a whole rich country would be buried in blood; that thousands would instantly be reduced to abject penury; that the first towns in that fine island would be reduced to a heap of ashes. But those gentlemen said no, it cannot be, all our desires originate in philanthropy—we wish to do good! But, sir, we have lived to see these dreadful scenes. These horrid effects have succeeded what was conceived once to be trifling.

Most important consequences may likewise on the result of the present anti-slavery agitation, although gentlemen little apprehend it. There have been Abolition emissaries among us in the Southern States; they have begun their war upon us; an actual organization has commenced; we have had then meeting in their club rooms and debating on that subject, and determinations have been made.

I recollect that gentlemen in France used arguments like the gentleman from Massachusetts [George Thacher]: "We can indemnify these proprietors." But how did they do it, or how can it be done? Not at all. Further, we were told these things would take place, we need not be alarmed; it was inevitable; that it was reasonable and unavoidable. Sir, it never will take place. There is one alternative which will save us from it, but that

welfare, to the very existence, of this country, than a formal coalition, for any purposes, with any foreign nation whatever. It was a policy, a resort to which ought always to be resisted. He was ready to go as far as anyone in enforcing, within our own jurisdiction, the abolition of the African slave trade, but to direct the President to enter into any compact or concert for this subject with any foreign nation or individuals was a step he would never consent to. He could not separate from foreign alliances the idea of foreign politics and foreign wars; and the proposed measure he should view as the commencement of a system of foreign connections tending to foreign alliances, to which Mr. T. expressed great repugnance.

SENATOR BURRILL entirely agreed to the impolicy of foreign alliances, but he could not view the proposed concert in this light, nor could he conceive that any such disastrous consequences would follow it as had been anticipated by the gentleman from Georgia. Nor was the principle of the proposed concert a novelty in this country. By referring to the treaty of Ghent it would be found that our ministers had either made or received overtures on this very subject, and a provision was in consequence inserted in the treaty.¹ The concert had been considered as indispensable to bring about the entire abolition of the slave trade; and, Mr. B. said, it had been found impossible to put an entire stop to it without a coöperation among the nations prohibiting it; for, no matter how many nations prohibit the trade, if one or two are allowed to carry it on, the evil will still exist.

SENATOR KING said it was the boast of this nation that it had the reputation of having been the first to begin the abolition of the African slave trade. The example of this country had excited the emulation of other nations, and all of them having any connection with this trade, except Spain and Portugal, had come into the measures for its abolition. Those two had taken time for further consideration, and so long as their decision was suspended the regulations of other nations would be inefficient; an entire abolition of the traffic in slaves would never be effected until all united to suppress it. So long as Spain or Portugal permitted this trade, and so long as any of our own people, to their disgrace, continued to pursue it under those flags, it was necessary to the honor and the interest of this country to concur in any proper measures for its suppression. He could not perceive, he said, how such a measure as this motion looked to could lead to any such entangling con-

¹ See Vol. II, page 219.

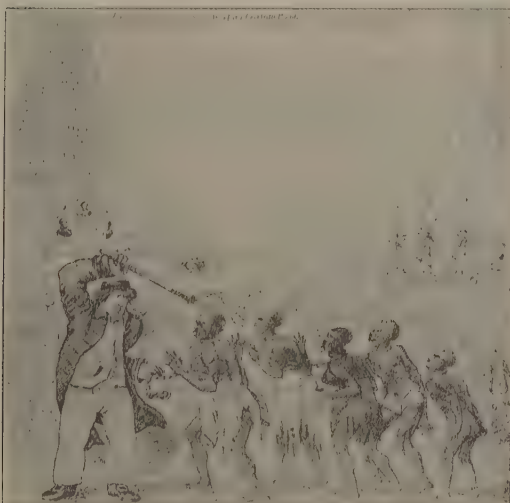
nection as had been apprehended. What was proposed was an honest and moral concert to put an end to a traffic which is an abomination on the earth.

SENATOR CAMPBELL declared his unwillingness to enter into any compact whatever with any foreign power to regulate our own conduct or to carry our laws into effect. Two nations had thought proper still to permit the trade alluded to. What compact, said Mr. C., are we to form with others to induce these nations to forbid it? Are we to require Spain and Portugal to give up this trade? Are we to unite with France and England to urge them to give it up? And, should they yet refuse, are we to attempt to force them by arms to do so? Are we, he asked, prepared to risk a war for this object? He confessed he could not see to what other result the proposition tended.

SENATOR BURRILL said if the Senate should refuse the inquiry it might give rise to unjust surmises and suspicions as to the sincerity of the Government in passing laws for this purpose, and in entering into the stipulations of the treaty of Ghent. The Senate should be cautious not to give ground for the disgraceful suspicion that they are not sincere and hearty in this cause of suffering humanity. Every gentleman in this House wishes for the entire abolition of this abominable traffic, and this is the general voice of the country. The gentlemen here representing the slaveholding States are as decided as any others on this point, and one of those States (Virginia) was entitled, he believed, to the honor of having been the first State to prohibit it.

SENATOR BARBOUR said America stands in the relation to the rest of the world that Virginia does to America. She took the lead in the humane effort to exterminate this horrible traffic. He rejoiced to see that the great nations of Europe had adopted her precepts, and were imitating her enlightened and philanthropic example. Spain and Portugal constitute the only exception; the former, it is said, with what truth he knew not, has received a pecuniary compensation to abandon the traffic. Should this be true, as he cordially hoped it might be, Portugal will then stand alone. It is reasonably to be anticipated that she will not be able to resist the incumbent load of the civilized world; when their remonstrances are enforced by the united influence of justice, humanity, and philanthropy. Africa, then freed from those disastrous effects which this trade has produced, may, under the benign influence of peace, reason, and religion, indulge a hope that in the fulness of time she may participate in the blessings of civilization, with all its benefi-

thusiastic; but, sir, allow me to be honest, believe me sincere, permit me to be plain. In New England we believe "all men are born equally free and independent"—thus commences our "Bill of Rights." Whatever their color, powers of mind, property, or rank in society, they are freemen—citizens, not slaves. They have a claim to that freedom in this asylum of liberty.



JOSEPH HEINTER'S CLAIMS TO THE VOTES OF A CHRISTIAN PEOPLE

From the collection of the New York Historical Society

Shall I not desire the termination of slavery? It is a duty, sir, I owe to myself, my country, and my God.

I am in favor of the resolution, sir, because its object comports with the dictates of reason and humanity. Though black, they are human beings, in human shape. That is not their crime, but their misfortune. We then ought to commiserate, not enslave them. Let exertions be made to raise them from

cent effects. Nor was he averse to adopting measures in concert with any nation which he believed would be calculated to hasten the destruction of this trade. For his part, he feared nothing from an alliance with any nation whose only object was humanity. No man could more highly appreciate than he did the soundness of the political maxim inculcated by the Father of his Country, in his legacy to the American people—that of avoiding entangling alliances with other nations; yet, with all his reverence for this wise precept and his determination to pursue its suggestions, he felt no apprehension from the concert proposed. A concert like the one proposed is in its character novel; its object is humanity; while alliances denounced by the above wise maxim have for their object dominion and power, to be acquired by the misery of mankind; to extricate a nation from which is not unfrequently attended with a violation of honor; or, if executed, it is frequently with the sacrifice of peace and sometimes with ruin.

In so far, then, as the principal project of the resolution is concerned, or the means of effecting it, he would go with the mover; but the part to which he objected was that proposing that Congress should unite with other nations to produce the object; this he considered to be improper. Congress can act only in its legislative capacity; and, by consequence, can enter into no concert with other nations. That has been assigned to another branch of the Government. It is through the Executive alone that intercourse and arrangements with other nations can be effected. Leave it, therefore, where the Constitution has placed it, without discussing the question how far this body has a right to advise, in its executive character, the Chief Magistrate upon the propriety of entering into new arrangements with foreign nations; a question on which there is a difference of opinion.

SENATOR TROUP said: This word concert, Mr. President, means something—it means connection, combination, alliance, for a given object; it means entangling alliance. You propose a concert with crowned heads! They never concert with themselves, but broils, and quarrels, and wars follow in the train. History is full of them; and, if entangling connections, sir, between monarchs, who wield the sword and the purse, who make peace and war at their will, be fruitful of these mischiefs, what may we not expect when you enter the lists without the means of doing what you engage to do?

SENATOR MORRILL said: Coming from New England, where slavery is unknown, my prejudices may be strong, my views en-

their present state of degradation; assist in the mighty work. Every human affection recoils at their bondage. May every benevolent heart beat high for their freedom, and every human arm be extended for their emancipation. It is a cause, sir, in which the world is engaged. As it was commenced by the United States, let them continue their efforts; let Congress say, with all civilized nations, they will joyfully bear a part to accomplish an object so desirable, so humane.

But, sir, I am in favor of the resolution in a political point of view. Carry the great design into effect, and you place those forlorn objects within the reach of political and moral instruction. The basis on which every good government most firmly stands is knowledge and virtue. Diffuse and extend these sacred principles, and you enlarge the basis on which your Government is built; and, in the same proportion, you carry the principles of liberty and the rights of man to those who grope in darkness, and aid in the emancipation of those who are bound in the chains of despotism.

Mr. President, I am in favor of the resolution in a moral point of view. We, sir, are a Christian nation. The Bible is our moral guide. Are not its principles sacred, its precepts salutary, and its commands obligatory? Have not the frowns of indignant Heaven, and the threatenings of Jehovah, rested on nations and cities for their ingratitude to their fellow mortals? Babylon—Babylon the great has fallen! What has brought her down? The scene is viewed in prospect. "The merchants of the earth shall weep and mourn over her." In what did her commerce consist? "In gold, and silver, and precious stones, and pearls, and chariots, and slaves, and the souls of men." Ah, Mr. President, this was the climax of their abominations! They had a traffic in slaves and the souls of men. This brought down the judgments of Heaven. That they may be averted from the world, let the inhuman traffic be abolished to the end of the earth.

In accordance with the report of this and subsequent committees Congress, by the Acts of April 20, 1818, and March 3, 1819, authorized the President to send cruisers to the coast of Africa to stop the slave trade, and by the Act of May 15, 1820, declared the traffic to be piracy. By the Webster-Ashburton treaty of 1842 the Governments of the United States and Great Britain agreed to maintain independent squadrons on the African coast to act in conjunction. However, the slave trade with

the United States was not entirely suppressed until the close of the Civil War.

The trade was most active in the years just prior to the war, when the domestic supply of slaves was insufficient to fill the demand for them created by the development of the Southwest. In 1859-60, 85 vessels were fitted out from New York as slavers, and it is estimated that they introduced into the country from 30,000 to 60,000 negroes. During these years the repeal of the laws against the trade was actively urged by many prominent statesmen and newspapers of the South and openly demanded and justified in political conventions, such as the Democratic convention at Charleston, S. C., in 1860 [see Vol. V, chapter vii].

CHAPTER II

THE MISSOURI COMPROMISE

[DEBATE ON THE RESTRICTION OF SLAVERY IN THE TERRITORIES]

Organization of Mississippi Territory—George Thacher [Mass.] Offers Amendment to Exclude Slavery; It Is Defeated—Missouri Applies for Admission to the Union—James Tallmadge, Jr. [N. Y.], in the House of Representatives, Moves to Restrict Slavery in the State—Debate on the Motion: in Favor, Tallmadge, John W. Taylor [N. Y.], Timothy Fuller [Mass.], Arthur Livermore [N. H.]; Opposed, Philip P. Barbour [Va.]; Amendment Carried—The Senate Rejects the Tallmadge Amendment and the Bill Is Lost—Arkansas Territory Organized with Slavery—Senator Taylor's Proviso Abolishing Slavery North of 36 Degrees and 30 Minutes North Latitude; It Is Withdrawn—Debate in Senate on Admission of Maine and Missouri: in Favor of Restriction of Slavery in Missouri, Jonathan Roberts [Pa.], Walter Lowrie [Pa.], Rufus King [N. Y.]; Opposed, Freeman Walker [Ga.], Nicholas Van Dyke [Del.], James Barbour [Va.], William Pinkney [Md.]—Proposal of the Missouri Compromise—Debate in the House: Proslavery Speakers, Alexander Smyth [Va.], Robert W. Reid [Ga.], Benjamin Hardin [Ky.], Louis McLane [Del.], Philip P. Barbour [Va.], Charles Pinckney [S. C.], John Tyler [Va.]; Anti-Slavery Speakers, Henry Meigs [N. Y.], John W. Taylor [N. Y.], Joseph Hemphill [Pa.], John Sergeant [Pa.], William Darlington [Pa.], James Stevens [Ct.]—Missouri Is Admitted Under the Compromise—Debate in Congress on a Clause in the Proposed Constitution of Missouri Debarring Entrance into the State of Free Negroes—Henry Clay [Ky.] Secures a Compromise.

THE specific issue under which the slavery question agitated the country for the greater part of the period from the formation of the Constitution under the Civil War was that of restrictions in regard to slavery in the formation of Territories and the admission into the Union of new States. As has been related in Volume I [see page 267], the Northwest Territory had been organized in 1787 with the exclusion of slavery.

On March 23, 1798, the question of the organization

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of the Territory of Mississippi (comprising roughly the present States of Alabama and Mississippi) came before the House. A resolution was offered, giving the Territory the government of the Northwest Territory as established by the Ordinance of 1787, with the exception of the prohibition of slavery. George Thacher [Mass.] offered an amendment striking out the excepting clause, and so prohibiting slavery in the Southern Territories as well as in the Northern. The question was put on Mr. Thacher's amendment and negatived, there being only 12 votes in its favor.

Senator Thomas H. Benton remarks of this discussion in his "Debates of Congress" that it "was the first debate on the prohibition of slavery in a Territory which took place under the Federal Constitution, and it is to be observed that the constitutional power of Congress to make the prohibition was not questioned by any speaker. Expedient objections only were urged."

At the close of the War of 1812 the free and slave States were the same in number, nine and nine. In 1816 (under Madison's Administration) Indiana was admitted into the Union as free soil, being a part of the Northwest Territory in which slavery had been prohibited by the Ordinance of 1787. In 1817 Mississippi was formed as a State out of the western part of Mississippi Territory, which had been organized as slave territory. In 1818 Illinois was admitted under the same conditions as Indiana. To preserve the equality of slave and free States the next State should be admitted as slave. When therefore the northern part of Missouri Territory (organized by various Acts of Congress from 1812 onward, out of the Louisiana Purchase, wherein slavery prevailed and was recognized by the treaty with France) applied for admission into the Union, late in 1818, the Southern Congressmen assumed that it would be admitted as slave. They were therefore greatly incensed when James Tallmadge, Jr. [N. Y.], on February 13, 1819, moved an amendment to the bill for its admission declaring all its inhabitants free who should be born after the date of admission, and providing for the gradual emancipation of those now held in bondage.

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GREAT AMERICAN DEBATES

Mr. Tallmadge's amendment was debated from February 13 to 15, when it was adopted in the Committee of the Whole by a vote of 79 to 67.

The principal speakers in favor of the amendment were, in addition to Mr. Tallmadge, John W. Taylor [N. Y.], Timothy Fuller [Mass.], and Arthur Livermore [N. H.]. Philip P. Barbour [Va.] was the only speaker in the negative whose remarks were reported at length.

Henry Clay [Ky.], the Speaker of the House, opposed the amendment, but his arguments must be gleaned from the replies made by his opponents.

Of this debate Senator Benton, in his "Debates of Congress," remarks:

This was the commencement of the great Missouri agitation which was settled by the compromise. No two words have been more confounded of late than these of the restriction and compromise—so much so that some of the eminent speakers of the time have had their speeches against the restriction quoted as being against the compromise—of which they were zealous advocates. Though often confounded, no two measures could be more opposite in their nature and effects. The restriction was to operate upon a State—the compromise on territory. The restriction was to prevent the State of Missouri from admitting slavery—the compromise was to admit slavery there, and to divide the rest of Louisiana about equally between free and slave soil. The restriction came from the North—the compromise from the South. The restriction raised the storm—the compromise allayed it.

RESTRICTION OF SLAVERY IN MISSOURI

HOUSE OF REPRESENTATIVES, FEBRUARY 13-15, 1819

MR. TAYLOR.—Our votes this day will determine whether the high destinies of this region and of these generations shall be fulfilled, or whether we shall defeat them by permitting slavery, with all its baleful consequences, to inherit the land. Let the magnitude of this question plead my apology, while I briefly address a few considerations to the sober judgment of patriots and statesmen.

First. Has Congress power to require of Missouri a con-

stitutional prohibition against the further introduction of slavery as a condition of her admission into the Union?

Second. If the power exist, is it wise to exercise it?

The third section of the fourth article of the Constitution declares that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States."

After the formation of a Territory the Congress may admit the State into the Union in pursuance of a power delegated by the same section of the Constitution, in the following words: "New States may be admitted by the Congress into the Union." This grant of power is evidently alternative; its exercise is committed to the sound discretion of Congress; no injustice is done by declining it. But if Congress has the power of altogether refusing to admit new States, much more has it the power of prescribing such conditions of admission as may be judged reasonable. The exercise of this power until now has never been questioned. The act of 1802, under which Ohio was admitted into the Union, prescribed the condition that its constitution should not be repugnant to the ordinance of 1787. The sixth article of that ordinance declares, "there shall be neither slavery nor involuntary servitude in the said territory otherwise than in the punishment of crimes whereof the party shall have been duly convicted." The same condition was imposed by Congress on the people of Indiana and Illinois. These States have all complied with it and framed constitutions excluding slavery. Missouri lies in the same latitude. Its soil, productions, and climate are the same, and the same principles of government should be applied to it.

But it is said that, by the treaty of 1803, with the French Republic [cession of Louisiana] Congress is restrained from imposing this condition. The third article is quoted as containing the prohibition. It is in the following words: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The treaty made no provision for the erection of new States in the ceded territory. That was a question of national policy, properly reserved for the decision of those to whom the constitution had committed the power.

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maintained that, although we have the power to dispose of the whole Territory, we have no right to provide against the further increase of slavery within its limits? That, although we may change the political relations of its free citizens by transferring their country to a foreign power, we cannot provide for the gradual abolition of slavery within its limits, nor establish those civil regulations which naturally flow from self-evident truth? No, sir, it cannot; the practice of nations and the common sense of mankind have long since decided these questions.

Having proved, as I apprehend, our right to legislate in the manner proposed, I proceed to illustrate the propriety of exercising it. And here I might rest satisfied with reminding my opponents of their own declarations on the subject of slavery. How often and how eloquently have they deplored its existence among them? Gentlemen have now an opportunity of putting their principles into practice; if they have tried slavery and found it a curse; if they desire to dissipate the gloom with which it covers their land, I call upon them to exclude it from the Territory in question; plant not its seeds in this uncorrupt soil; let not our children, looking back to the proceedings of this day, say of them, as they have been constrained to speak of their fathers, "we wish their decision had been different; we regret the existence of this unfortunate population among us; but we found them here: we know not what to do with them; it is our misfortune, we must bear it with patience."

History will record the decision of this day as exerting its influence for centuries to come over the population of half our continent. If we reject the amendment and suffer this evil, now easily eradicated, to strike its roots so deep in the soil that it can never be removed, shall we not furnish some apology for doubting our sincerity when we deplore its existence—shall we not expose ourselves to the same kind of censure which was pronounced by the Saviour of mankind upon the Scribes and Pharisees, who builded the tombs of the prophets and garnished the sepulchres of the righteous, and said, if they had lived in the days of their fathers, they would not have been partakers with them in the blood of the prophets, while they manifested a spirit which clearly proved them the legitimate descendants of those who killed the prophets, and thus filled up the measure of their fathers' iniquity?

Mr. Chairman, one of the gentlemen from Kentucky [Mr. Clay] has pressed into his service the cause of humanity. He has pathetically urged us to withdraw our amendment and suf-

The treaty, therefore, has no operation on the question in debate. Its requirements, however, have been faithfully fulfilled. In 1804 the laws of the United States were extended to that territory. In 1811 a law was passed to enable the people of the Territory of Orleans to form a constitution and State government, and to provide for its admission into the Union. Did Congress then doubt its power to annex conditions to such admission? No, sir, far from it. The government of Orleans had always been administered according to the principles of the civil law. The common law, so highly valued in other parts of our country, was not recognized there. Trial by jury was unknown to the inhabitants. Instead of a privilege, they considered its introduction an odious departure from their ancient administration of justice. Left to themselves, they never would have introduced it. Congress, however, knowing these things, made it a condition of their admission into the Union that trial by jury should be secured to the citizen by a constitutional provision.

Even the language of the Territory was required to be changed as a condition of its admission. French and Spanish were the only languages generally spoken or even understood. But Congress required from them a constitutional provision that their legislative and judicial proceedings should be conducted in the English language. They were not left at liberty to determine this point for themselves. From these facts it appears that Congress, at that day, acted from a conviction that it possessed the power of prescribing the conditions of their admission into the Union.

Gentlemen have said the amendment is in violation of the treaty, because it impairs the property of a master in his slave. Is it then pretended that, notwithstanding the declaration in our bill of rights, "that all men are created equal," one individual can have a vested property not only in the flesh and blood of his fellowman, but also in generations not yet called into existence? Can it be believed that the supreme legislature has no power to provide rules and regulations for ameliorating the condition of future ages? And this, too, when the Constitution itself has vested in Congress full sovereignty, by authorizing the enactment of whatever law it may deem conducive to the welfare of the country. The sovereignty of Congress in relation to the States is limited by specific grants—but in regard to the Territories it is unlimited. Missouri was purchased with our money, and, until incorporated into the family of States, it may be sold for money. Can it then be

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fer this unfortunate population to be dispersed over the country. He says they will be better fed, clothed, and sheltered, and their whole condition will be greatly improved. Sir, true humanity disowns his invocation. The humanity to which he appeals is base coin; it is counterfeit, it is that humanity which seeks to palliate disease by the application of nostrums, which



CALHOUN CONGRATULATING CLAY ON HIS DEFENCE OF SLAVERY
From the collection of the New York Historical Society

scatter its seeds through the whole system—which saves a finger to-day, but amputates the arm to-morrow. Sir, my heart responds to the call of humanity; I will zealously unite in any practicable means of bettering the condition of this oppressed people. I am ready to appropriate a territory to their use, and to aid them in settling it—but I am not willing, I never will consent, to declare the whole country west of the Mississippi a market overt for human flesh. In vain will you enact severe laws against the importation of slaves if you create for them an additional demand by opening the western world to their employment. While a negro man is bought in Africa for a few gewgaws or a bottle of whisky, and sold at New Orleans for

twelve or fifteen hundred dollars, avarice will stimulate to the violation of your laws. Notwithstanding the penalties and confiscations denounced in your statutes and actually enforced on all detected offenders, the slave trade continues. A vigilant execution of the laws may diminish it, but, while you increase the demand and offer so great temptation to the cupidity of unprincipled men, they will encounter every peril in the prosecution of this unhallowed traffic.

It is objected that the amendment is calculated to disfranchise our brethren of the South by discouraging their emigration to the country west of the Mississippi. If it were proposed to discriminate between citizens of the different sections of our Union and allow a Pennsylvanian to hold slaves there while the power was denied to a Virginian, the objection might very properly be made; but when we place all on an equal footing, denying to all what we deny to one, I am unable to discover the injustice or inequality of which honorable gentlemen have thought proper to complain. The description of emigrants may be affected in some measure by the amendment in question. If slavery shall be tolerated, the country will be settled by rich planters, with their slaves; if it shall be rejected, the emigrants will chiefly consist of the poorer and more laborious classes of society. If it be true that the prosperity and happiness of a country ought to constitute the grand object of its legislators, I cannot hesitate for a moment which species of population deserves most to be encouraged by the laws we may pass. Gentlemen, in their zeal to oppose the amendment, appear to have considered but one side of the case. If the rejection of slavery will tend to discourage emigration from the South, will not its admission have the same effect in relation to the North and East? Whence came the people who, with a rapidity never before witnessed, have changed the wilderness between the Ohio and Mississippi into fruitful fields; who have erected there, in a period almost too short for the credibility of future ages, three of the freest and most flourishing States in our Union?

Do you believe that these people will settle in a country where they must take rank with negro slaves? Having neither the ability nor will to hold slaves themselves, they labor cheerfully while labor is honorable; make it disgraceful, they will despise it. You cannot degrade it more effectually than by establishing a system whereby it shall be performed principally by slaves. The business in which they are generally engaged, be it what it may, soon becomes debased in public estimation. It is considered low and unfit for freemen. I cannot better

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acter of an American Congress to barter the present happiness and future safety of unborn millions for a few pieces of pelf, for a few cents on an acre of land. For myself, I would no sooner contaminate the national treasury with such ill-gotten gold than I would tarnish the fame of our national ships by directing their employment in the African slave trade.

If I agreed in opinion with the gentleman from Georgia [Mr. Cobb] that this amendment does not present an insurmountable barrier against the further introduction of slavery; that Missouri, after becoming a State, may call a convention and change this feature of her constitution—even then I should consider the amendment scarcely less important than if it were a fundamental and unalterable compact. On this subject we have experience, and the result has justified the best hopes of our country. Slavery was excluded from the Territories north of the Ohio. Our power over their municipal regulations has since been withdrawn; they have taken the government into their own hands. But who has not seen the moral effect produced on the inhabitants by the ordinance of 1787? It is as permanent as the soil over which it was established. The exclusion of slavery from all these States is now more effectually insured by public sentiment than by their constitutional prohibitions. Require the government of Missouri to commence right, and the same moral effect will then be produced. No convention of the people will ever permit the future introduction of slaves. Let their political institutions be established in wisdom, and I shall confidently trust in the good sense of the people to direct them hereafter. But, be the event as it may, I at least shall have the satisfaction of reflecting that, if the misfortune of slavery shall be entailed upon this country, everything in my power will have been done to prevent it.

Mr. FULLER.—The Constitution expressly makes a republican form of government in the several States a fundamental principle, to be preserved under the sacred guarantee of the National Legislature. [Art. 4, Sec. 4.] Now, sir, the amendment proposed by the gentleman from New York [Mr. Tallmadge] merely requires that slavery shall be prohibited in Missouri. Does this imply anything more than that its constitution shall be republican? The existence of slavery in any State is so far a departure from republican principles. The Declaration of Independence, penned by the illustrious statesman then and at this time a citizen of a State which admits slavery, defines the principle on which our national and State constitutions are all professedly founded. The second paragraph of that instrument be-

illustrate this truth than by referring to a remark of the honorable gentleman from Kentucky [Mr. Clay]. I have often admired the liberality of his sentiments. He is governed by no vulgar prejudices; yet with what abhorrence did he speak of the performance, by your wives and daughters, of those domestic offices which he was pleased to call servile! What comparison did he make between the "black slaves" of Kentucky and the "white slaves" of the North; and how instantly did he strike a balance in favor of the condition of the former! If such opinions and expressions, even in the ardor of debate, can fall from that honorable gentleman, what ideas do you suppose are entertained of laboring men by the majority of slaveholders? Whom of that class have they ever called to fill stations of any considerable responsibility? When have we seen a Representative on this floor, from that section of our Union, who was not a slaveholder? I appeal to gentlemen whether the selection of a laboring man, however well educated, would not be considered an extraordinary event?

An argument has been urged by a gentleman from Virginia [Mr. Barbour] against the proposed amendment connected with our revenues. He said that by prohibiting the further introduction of slaves into the proposed State we should reduce the price and diminish the sales of our public lands. In my opinion, the effect would be precisely the reverse. True it is that lands for cultivation have sold higher in Alabama than in Illinois, but this is owing not to the rejection of slavery in the one and its admission into the other, but to the different staples they are capable of producing. The advanced price of cotton has created in the market a demand for lands suited to its cultivation and enhanced their value far beyond any former precedent. But, to test the truth of the position, we must ascertain the relative value of land in adjoining States, the one allowing and the other rejecting slavery, where the climate, soil, productions, and advantages of market are similar. Pennsylvania and Maryland furnish fair specimens of comparison in all these respects. But here the result is in direct opposition to the conjecture of the gentleman from Virginia. Land on the Pennsylvania side of the line, where the power of holding slaves does not exist, uniformly sells at a higher price than lands of equal quality on the Maryland side, where the power is in full exercise. It, therefore, is probable that the further introduction of slavery into Missouri, far from increasing, would actually diminish the value of our public lands. But, should the fact be otherwise, I entreat gentlemen to consider whether it become the high char-

gins thus: "We hold these truths to be self-evident—that all men are created equal—that they are endowed by their Creator with certain inalienable rights—that among these are life, liberty, and the pursuit of happiness." Since, then, it cannot be denied that slaves are men, it follows that they are in a purely republican government both free, and are entitled to liberty and the pursuit of happiness.

Mr. Fuller was here interrupted by several gentlemen, who thought it improper to question in debate the republican character of the slaveholding States, which had also a tendency, as one gentleman [Mr. Colston of Virginia] said, to deprive those States of the right to hold slaves as property, and he adverted to the probability that there might be slaves in the gallery listening to the debate.

Mr. F. assured the gentleman that nothing was further from his thoughts than to question on that floor the right of Virginia and other States which held slaves when the Constitution was established to continue to hold them. With that subject the national legislature could not interfere, and ought not to attempt it. Sir, it is my wish to allay, not to excite, local animosities; but I shall never refrain from advancing such arguments in debate as my duty requires, nor do I believe that the reading of our Declaration of Independence, or a discussion of republican principles on any occasion, can endanger the rights or merit the disapprobation of any portion of the Union.

The honorable Speaker cites the first clause in the second section of the fourth article: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," which he thinks would be violated by the condition proposed in the constitution of Missouri. To keep slaves—to make one portion of the population the property of another—hardly deserves to be called a privilege, since what is gained by the masters must be lost by the slaves. But, independently of this consideration, I think the observations already offered to the committee, showing that holding the black population in servitude is an exception to the general principles of the Constitution, and cannot be allowed to extend beyond the fair import of the terms by which that exception is provided, are a sufficient answer to the objection. The speaker proceeds in the same train of reasoning, and asks, if Congress can require one condition, how many more can be required, and where these

conditions will end? With regard to a republican constitution, Congress are obliged to require that condition, and that is enough for the present question; but I contend, further, that Congress has a right, at their discretion, to require any other reasonable condition. Several others were required of Ohio, Indiana, Illinois, and Mississippi. The State of Louisiana, which was a part of the territory ceded to us at the same time with Missouri, was required to provide in her constitution for trials by jury, the writ of habeas corpus, the principles of civil and religious liberty, with several others peculiar to that State. These certainly are, none of them, more indispensable ingredients in a republican form of government than the equality of privileges of all the population; yet these have not been denied to be reasonable and warranted by the national Constitution in the admission of new States.

One gentleman, however, has contended against the amendment because it abridges the rights of the slave-holding States to transport their slaves to the new States for sale or otherwise. This argument is attempted to be enforced in various ways, and particularly by the clause in the Constitution last cited. It admits, however, of a very clear answer by recurring to the ninth section of article first, which provides that "the migration or importation of such persons as any of the States then existing shall admit shall not be prohibited by Congress till 1808." This clearly implies that the migration and importation may be prohibited after that year. The importation has been prohibited, but the migration has not hitherto been restrained; Congress, however, may restrain it when it may be judged expedient. Hitherto it has not been found necessary for Congress to prohibit migration or transportation from State to State. But now it becomes the right and duty of Congress to guard against the further extension of the intolerable evil and the crying enormity of slavery.

The expediency of this measure is very apparent. The opening of an extensive slave market will tempt the cupidity of those who otherwise perhaps might gradually emancipate their slaves. We have heard much, Mr. Chairman, of the Colonization Society,² an institution which is the favorite of the humane gentlemen in the slave-holding States. They have long been lamenting the miseries of slavery and earnestly seeking for a remedy compatible with their own safety and the happiness of their slaves. At last the great desideratum is found—a colony in Africa for the emancipated blacks. How will the generous in-

² See the following chapter.

nal States; but why does it not? Because they themselves, in the exercise of their legislative power, have willed that it shall be so. But, though it does not now exist, it is competent for them, by a law of their own enactment, to authorize it—to call it into existence whenever they shall think fit.

Sir, how different would be the situation of Missouri if the proposed amendment be adopted. The State would obviously labor under this disadvantage in relation to the other States; that, whereas the older free States might introduce slavery, Missouri could not, unless, indeed, another opinion, which has been advanced, is correct, that Missouri might forthwith change its constitution, and get rid of the difficulty. If that be the case, sir, as has been justly remarked, we were doing worse than nothing to legislate upon the subject.

But, said he, if we pursue this reasoning still further, and follow it up to all the consequences to which it will lead, we shall be more forcibly struck with its impropriety. If we have a right to go one step in relation to new States, beyond the footing upon which the original States stand; if we have a right to shear them of one beam more of sovereignty, we have the same right to take from them any other attribute of sovereign power.

Again, if we had the power to say that their constitution should provide that there should not be slavery, we had the same power over the converse of the proposition, and to require them to provide that there should be slavery; he believed this latter principle would not be contended for.

It is said that the like prohibition has been enacted as it respects the States northwest of the River Ohio. In the first place, the House would recollect that an ordinance was passed by the old Congress, at a period anterior to the present Constitution, ordaining that as a fundamental article in relation to all the Northwest Territory, and therefore the precedent, if it would otherwise have any weight, failed in its application. But, he said, he did not hesitate to express it as his decided opinion that the ordinance which he had just mentioned was utterly void, and, consequently, that those States might introduce slavery among them, if they so willed, because the territory which composes them originally belonged to Virginia. She had conquered it by her arms; she ceded it to the United States upon the express condition that it should be formed into States as free, sovereign, and independent as the other States. The prohibition of slavery was ordained by the Continental Congress, after the session had been made, which would unquestionably render

tentions of these humane persons be frustrated if the price of slaves is to be doubled by a new and boundless market! In stead of emancipation of the slaves, it is much to be feared that unprincipled wretches will be found kidnapping those who are already free, and transporting and selling the hapless victims into hopeless bondage. Sir, I really hope that Congress will not contribute to discountenance and render abortive the generous and philanthropic views of this most worthy and laudable society.

Mr. BARROUR.—Our power in relation to this subject is derived from the first clause of the third section of the fourth article of the Constitution, which is in these words: "New States may be admitted, by the Congress, into this Union." Now, sir, although, by the next succeeding clause of the same section, "Congress has the power to make all needful rules and regulations respecting the territory of the United States"; and although, therefore, while the proposed State continued a part of our territory, upon the footing of a territorial government, it would have been competent for us, under the power expressly given, to make needful rules and regulations—to have established the principle now proposed; yet the question assumes a totally different aspect when that principle is intended to apply to a State. This term State has a fixed and determinate meaning; in itself it imports the existence of a political community free and independent, and entitled to exercise all the rights of sovereignty of every description whatever. As it stands in the Constitution, it is to be defined with some limitation upon that principle of construction which has reference to the subject-matter. The extent of the limitation, according to this rule, is obviously this, that it shall enjoy all those rights of sovereignty which belong to the original States which composed the Federal family, and into a union with which it is to be admitted. Now, sir, although the original States are shorn of many of their beams of sovereignty—such, for example, as that of declaring war, of regulating commerce, etc.; yet we know that, even by an express amendment to the Constitution, all powers not expressly delegated are reserved to the States respectively; and of course the power in question of deciding whether slavery shall or shall not exist.

Gentlemen had said that slavery was prohibited in many of the original States. Does not the House, said Mr. B., at the first glance, perceive the answer to this remark? It is an argument from fact to principle, and in this its utter fallacy consists. It is true that slavery does not exist in many of the origi-

those States less sovereign than the original States of the Federal Union.

But it has been said that we imposed conditions on the admission of the State of Louisiana into the Union. What were those conditions? That civil and religious liberty should be established, and the trial by jury secured. It cannot be necessary to remind the House that these several provisions attached also to the original States, by the most explicit declaration to that effect, in the first, fifth, and seventh amendments to the Constitution of the United States.

Our business is to create a political community of a particular character, as prescribed by the constitution; to itself it will belong to regulate its interior concerns, and, among others, to decide whether it will or will not admit involuntary servitude.

In respect to the justice of the measure, he would beg leave to submit some remarks to the House. Although the slaves in the South were held as property, although certainly degraded in the scale of society by reason of their servitude, we felt for them those sympathies which bind one man to another, though that other may be our inferior. Such were the feelings of the Southern people toward their slaves that nothing scarcely but the necessity of the master would induce him to sell a faithful slave. If the master emigrated, he would carry his slaves with him, not only for the various reasons which he had already stated, but because, going into a wilderness, where much labor was necessary to clear the country, they were, on that account, peculiarly necessary. Under those circumstances a prohibition of the importation of slaves would, in almost every instance, be tantamount to a prohibition of the emigration of the Southern people to the State of Missouri. He asked whether it could be just to adopt such a regulation as would open an illimitable tract of the most fertile land to the northern part of the United States, and, in effect, entirely shut out the whole Southern people? If it were correct in relation to Missouri, it would be equally so as to the whole tract of country lying west of the Mississippi. He hoped, from this view of the subject, the House would be struck with its monstrous injustice.

Again, he would ask if it can be good policy to perpetuate fixed boundaries, either natural or artificial, between the slave-holding and non-slaveholding States? He had thought that the great object of our Federal compact was union. The surest possible mode of securing our political union, next to promoting the common defence and general welfare, is to give, as far as possible, every facility to the intercourse between the different

sections of this extensive Republic; that, by the attrition which will be the result of that intercourse, the asperities of our mutual prejudices and jealousies may be rubbed off; and, in short, that we may be knit together by a sympathy of feelings, by a community of habits and manners which ought to bind us together as brothers of the same great political family. Already in the Northern part of our country, together with that north-west of the river Ohio, divided from us by those distinguishing names of slaveholding and non-slaveholding. Let us not make the Mississippi another great natural boundary for the purpose of perpetuating the same distinctions and dividing our country into castes. Gentlemen mistake when they suppose that, if slaves be permitted to be carried to Missouri, the Northern people will not emigrate to that State. Look at the fact in the Southern States; the Northern hive is continually pouring forth its swarms of emigrants, and many of them, especially of the mercantile class, alight and settle among us; they soon become familiar with our habits and modes of life, prosper in an eminent degree, far beyond our own people, and, indeed, he hesitated not to say, were entirely satisfied and happy, although they were in a slaveholding State. Gentlemen equally mistake when they suppose that their countrymen of the North, who are obliged to labor, would be degraded to a level with the slaves. Sir, our experience proves the contrary. We, too, have some of our citizens who are unable to purchase slaves, and who, therefore, till the ground with their own hands. But, sir, notwithstanding this, they have all that erectness of character which belongs to them as freemen, conscious of their political and civil rights; and he who should dare to treat them with disrespect, because fortune had not poured as much wealth into their laps as into his, would draw down upon him the execration of all good men.

Another effect of this amendment would be, in an essential degree, to affect the value of the countless millions of public lands beyond the Mississippi. He said he had already endeavored to show that it would obstruct the emigration from the Southern States. Precisely in proportion as it produced this effect, it would, of course, lessen the number of purchasers, and diminish the competition.

Mr. LIVINGSTON spoke as follows: I propose to show what slavery is, and to mention a few of the many evils which follow in its train; and I hope to evince that we are not bound to tolerate the existence of so disgraceful a state of things beyond its present extent, and that it would be impolitic and very unjust

our institutions, and that to tolerate slavery beyond the narrowest limits prescribed for it by the Constitution is a perversion of them all.

Slavery, sir, I repeat, is not established by our Constitution; but a part of the States are indulged in the commission of a sin from which they could not at once be restrained, and which they would not consent to abandon. But, sir, if we could, by any process of reasoning, be brought to believe it justifiable to hold others to involuntary servitude, policy forbids that we should increase it. Even the present slaveholding States have an interest, I think, in limiting the extent of involuntary servitude; for, should slaves become much more numerous, and, conscious of their strength, draw the sword against their masters, it will be to the free States that the masters must resort for an efficient power to suppress servile insurrection.

An opportunity is now presented, if not to diminish, at least to prevent, the growth of a sin which sits heavy on the soul of every one of us. By embracing this opportunity we may relieve the national character, and, in some degree, our own. But if we suffer it to pass unimproved, let us at least be consistent, and declare that our Constitution was made to impose slavery, and not to establish liberty. Let us no longer tell idle tales about the gradual abolition of slavery; away with colonization societies if their design is only to rid us of free blacks and turbulent slaves; have done also with Bible societies whose views are extended to Africa and the East Indies, while they overlook the deplorable condition of their sable brethren within our own borders; make no more laws to prohibit the importation of slaves, for the world must see that the object of such laws is alone to prevent the glutting of a prodigious market for the flesh and blood of man, which we are about to establish in the West, and to enhance the price of sturdy wretches, reared like black cattle and horses for sale on our own plantations.

On the following day (February 16) the amendment of Mr. Tallmadge was altered in character, divided into two sections, and then passed; the first section, prohibiting the further introduction of slavery, by a vote of 87 to 76, and the second, emancipating at the age of 25 all slaves born in the State after its admission into the Union, by a vote of 82 to 78.

The House then passed the bill to admit Missouri into the Union.

The bill was sent to the Senate on February 17, 1819.

to let it spread over the whole face of our Western territory. Slavery in the United States is the condition of man subjected to the will of a master who can make any disposition of him short of taking away his life. In those States where it is tolerated, laws are enacted making it penal to instruct slaves in the art of reading, and they are not permitted to attend public worship or to hear the Gospel preached. Thus the light of science and of religion is utterly excluded from the mind, that the body may be more easily bowed down to servitude. The bodies of slaves may, with impunity, be prostituted to any purpose and deformed in any manner by their owners. The sympathies of nature in slaves are disregarded; mothers and children are sold and separated; the children wring their little hands and expire in agonies of grief, while the bereft mothers commit suicide in despair. How long will the desire of wealth render us blind to the sin of holding both the bodies and souls of our fellow-men in chains! But, sir, I am admonished of the Constitution, and told that we cannot emancipate slaves. I know we may not infringe that instrument, and therefore do not propose to emancipate slaves. The proposition before us goes only to prevent our citizens from making slaves of such as have a right to freedom. In the present slaveholding States let slavery continue, for our boasted Constitution connives at it; but do not, for the sake of cotton and tobacco, let it be told to future ages that, while pretending to love liberty, we have purchased an extensive country to disgrace it with the foulest reproach of nations. Our Constitution requires no such thing of us. The ends for which that supreme law was made are succinctly stated in its preface. They are, first, to form a more perfect union and insure domestic tranquillity. Will slavery effect this? Can we, sir, by mingling bond with free, black spirits with white, like Shakespeare's witches in Macbeth, form a more perfect union and insure domestic tranquillity? Secondly, to establish justice. Is justice to be established by subjecting half mankind to the will of the other half? Justice, sir, is blind to colors, and weighs in equal scales the rights of all men, whether white or black. Thirdly, to provide for the common defence and secure the blessings of liberty. Does slavery add anything to the common defence? Sir, the strength of a republic is in the arm of freedom. But, above all things, do the blessings of liberty consist in slavery? If there is any sincerity in our profession that slavery is an ill, tolerated only from necessity, let us not, while we feel that ill, shun the cure which consists only in an honest avowal that liberty and equal rights are the end and aim of all

This body, on February 27, struck out, by a vote of 31 to 7, the clause relating to children of the slaves, and, by a vote of 22 to 16, that relating to further introduction of slavery into the State. The House refused to accept those amendments by a vote of 78 to 66, and, the Senate adhering to its action, the bill was lost and Missouri remained a Territory.

ORGANIZATION OF ARKANSAS TERRITORY

February 17, 1819, the House, in Committee of the Whole, began the discussion of the bill to organize the southern part of Missouri Territory into the Territory of Arkansas. The debate was wide and long continued, covering most of the ground of the preceding discussion, but differing in part, as the present proposition was to impose a condition on a territorial government and not on a State. Louis McLane [Del.] suggested that a line should be fixed north of which slavery hereafter should not be permitted in admitting new States into the Union.

On February 19 the House voted, 89 to 87, to strike out the clause liberating, at the age of 25, slaves born in the Territory, and, 90 to 86, to strike out the clause prohibiting the introduction of slavery into the Territory. The Senate, on March 1, concurred in the bill and the Territory was thus organized as slave.

Upon the passage of the bill in the House Mr. John W. Taylor [N. Y.], after stating that he thought it important that some line should be designated beyond which slavery should not be permitted, etc., moved the following amendment as an additional section to the bill:

"That neither slavery nor involuntary servitude shall hereafter be introduced into any part of the Territories of the United States lying north of 36 degrees and 30 minutes of north latitude."¹

¹ This proposed line, while exempting Arkansas from the restriction, would have included the State of Missouri in it, as it followed the latitude of 36° 30' through its whole course in the Louisiana Purchase.

The amendment, meeting opposition, was withdrawn by the mover for introduction at a more favorable occasion.

Before the meeting of the next Congress the legislatures of many of the Northern States, including Delaware, passed resolutions endorsing the Tallmadge proviso. In many cases the vote was unanimous, showing that old party lines had been wiped out by this new and portentous issue. For the first time in American politics the North and the South stood solidly arrayed against each other.

Congress met on December 6, 1819. Alabama was admitted as a slave State on December 14. Missouri again demanded admission. The district of Maine, in Massachusetts, separated by New Hampshire from the rest of the State and differing from it in politics, being Republican, while the "Old Bay State" almost alone in the Union remained Federalist, also applied for admission as a separate State. On January 3, 1820, the House of Representatives passed the bill, and it went up to the Senate, where a determined effort was made by the pro-slavery majority (which included three Northern Senators) to block its passage except on condition that Missouri, with a constitution permitting slavery, was also admitted. Accordingly, after a hard-fought fight with the minority, lasting a month, the majority on February 16, 1820, passed a bill (23 votes to 21) admitting Maine, but with a "rider" admitting Missouri without restriction as to slavery.

Senator Jesse B. Thomas [Ill.] then proposed a compromise in the Missouri section of the bill, which was in effect the restriction proposed in the House the preceding session by John W. Taylor [N. Y.], with Missouri excepted from its application. This was adopted by the Senate on February 17 by a vote of 34 to 10, the extreme pro-slavery men voting in the negative.

In the meantime the House, beginning on January 24, 1820, had been debating the Missouri bill with great fervor. The Tallmadge amendment (restricting slavery) of the last session had been reintroduced, as well as the Thomas compromise.

incongruity do the two propositions present! You are not acting on a section of two or three lines; as to Maine, it is her constitution you are ratifying. What do you find on the front of it? "Article 1, section 1: All men are born free and equal, and are free to worship God in their own way." Here is a substantial pledge to the good old faith. To her we may say, Come, sister, take your place in our constellation; the luster of your countenance will brighten the American galaxy. But do not urge us to admit Missouri, under a pretence of congeniality—with the visage of a savage, deformed with the hideous cicatrices of barbaric pride—with her features marred as if the finger of Lucifer had been drawn across them.

Senator Walker discussed the constitutional phase of the question.

The gentlemen who rely upon the 9th section of the 1st article of the Constitution contend that the power impliedly acknowledged to reside in Congress to prohibit the migration of slaves is sufficiently extensive to authorize the interdiction of carrying slaves from one State to another of this Union, or from the States to the Territories belonging to the United States; and that Congress may well regulate the intercourse between the States and Territories, in this regard, and totally prohibit the "migration" of slaves.

The construction which I am disposed to give to this section is—that the word "importation," as its appropriate meaning would indicate, looks abroad and was intended to embrace slaves brought into this country from Africa and elsewhere by water. The word "migration" was intended to embrace such as should be brought into the United States by land, from the contiguous territory belonging to foreign powers. For it would have been idle and vain to have prohibited the "importation" or the bringing of slaves directly into our ports—while there should be no interdiction of "migration" from the territory of foreign powers immediately adjoining the territory of the United States, and it must be recollected that, at the time of the adoption of the Federal Constitution, this country was bordered in different directions by territory belonging to other nations. By giving this construction you satisfy the full meaning of both words.¹

¹ This clause in the Constitution forms a part of the staple in every speech on the Missouri question, being quoted for opposite purposes by the two sides to the question—by one side, the phrases "migration" and "importation" being held to be synonymous and applicable to slaves within the United States, and their removal from one State to another; by the other side being held as words of different import, and applicable both to

On February 28, by a vote of 97 to 76, the House disagreed to the changes made in its Maine bill by the Senate. The Senate refused to recede from its amendments, and a joint conference committee was appointed by both chambers. On March 2 this committee reported that the Senate should recede from its union of the Maine and Missouri bills, that the House should give up the Tallmadge proviso, and that both chambers should unite in admitting Missouri with the Thomas amendment (the compromise).

The Tallmadge amendment was then struck out in the House by a vote of 90 to 87; the Thomas amendment was passed by a vote of 134 to 42, and a proviso was concurred in to secure the return of fugitive slaves from every part of the Louisiana Purchase. Similar action was taken by the Senate, and the bill went to the President, who, after conferring with his Cabinet as to the constitutionality of the Thomas amendment and receiving a unanimous opinion in the affirmative, signed the Missouri bill on March 6, 1820. The President had already (on March 3, 1820) signed the act admitting Maine.

In the Senate debate the chief speakers whose speeches were reported were: in favor of the restriction of slavery, Jonathan Roberts [Pa.] and Walter Lowrie [Pa.], Rufus King [N. Y.]; opposed, Freeman Walker [Ga.], Nicholas Van Dyke [Del.], James Barbour [Va.], and William Pinkney [Md.].

THE ADMISSION OF MISSOURI

SENATE, JANUARY 13-FEBRUARY 16, 1820

SENATOR ROBERTS.—I am willing to consider Missouri as an inchoate State; no one will more gladly see her admitted into the Union; but I wish to see the page of her constitution irradiated with the fundamental principles of civil and religious liberty—to see her become a party to that covenant round which the patriots of '76 pledged their lives, their fortunes, and their sacred honor. The committee have attached the admission of Missouri to the bill for admitting Maine, under the pretext of congeniality. How insufficient the pretence! What ludicrous

Mr. LOWRIE.—In the Constitution it is provided that "the migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808," etc. In this debate it seems generally to be admitted, by gentlemen on the opposite side, that these two words are not synonymous; but what their meaning is they are not so well agreed. One gentleman tells us it was intended to prevent slaves from being brought in by land; another gentleman says it was intended to restrain Congress from interfering with emigration from Europe.

These constructions cannot both be right. I shall give you no construction of my own, but refer to the authority of James Madison and James Wilson, who were both members of the Constitutional Convention, and who gave their construction to these words, long before this question was agitated. Mr. Madison observes that to say this clause was intended to prevent emigration does not deserve an answer. And Judge Wilson says expressly it was intended to place the new States under the control of Congress as to the introduction of slaves.

It is further said that the Louisiana treaty guarantees their property to all the inhabitants of Missouri, and that this property embraces slaves. The inhabitants then there were the parties we admit to this treaty; and, whatever may have been their rights or their property, they are not touched by this amendment. But farther proof is still wanted, because it is denied that the word *property*, in this treaty, means slaves. Here I

slaves and free persons, brought or coming from abroad. "Migration" implied voluntary action—importation, involuntary. The puzzle in the clause came from the use of both words, and from the necessity as well as the impossibility of finding a consistent meaning for each one. The care of the Constitution, in the use of language, was known. Far from using an equivocal phrase, it would not use two of the same import where one was enough; yet here was an exception—a departure from that laudable care; and, according to Mr. Madison, it was done on purpose, and for the ease of scrupulous consciences. Mr. Madison, in his letter of November, 1810, to Mr. Robert Walsh, thus accounts for it: "Some of the States had scruples about admitting the term 'slaves' into the instrument; hence the descriptive phrase, 'migration, or importation of persons'; the term migration allowing those who were scrupulous of acknowledging expressly a property in human beings to view imported persons as a species of emigrants, while others might apply the term to foreign malefactors sent or coming into the country. It is possible, though not recollected, that some might have had an eye to the case of freed blacks as well as malefactors." So that this phrase, "migration," which gave so much trouble to our Congress, and excited such alarming apprehension in one-half of the Union, was only a mode of getting a unanimous vote for the same thing, to wit: the non-importation of Africans for slaves after a certain day.—Thomas H. Benton in "Debates of Congress."

ask in rule of construction that is foreign to the subject. Apply to the writers on the law of nations; let them pass upon these words; try them by the principles of the Constitution; submit them to the test of reason; there all speak the same language; they tell you that *slaves and property* are not convertible terms. In the history of our Government, we have a case fully in point: When Virginia ceded the Northwestern Territory to Congress, it was on condition that it should become a member of the Federal Union, and have the same rights, sovereignty, freedom, and independence, as the other States. This language is as strong as that of the treaty with France; neither can it be denied that, at the time Virginia made this cession, there were in this territory a number of inhabitants professing to be her citizens and owning slaves.

Congress, with the knowledge of these facts, and the deed of violence before them, passed the ordinance of 1787, by which slavery was banished from this fair portion of our territory.

Humanity to the slaves themselves, it is said, requires the rejection of this amendment. How is the matter of fact on this point? Every gentleman here knows the situation of slaves in the South—the husband is in one family, the wife in another, the children in another. In removing, no respect to these relations can be paid—all must be disregarded; the husband and the wife must part, to meet no more; the father is dragged away, and the mother and the children left, or they are taken and he by force is compelled to stay behind; or, if he escapes after them, he is pursued, bound, and brought back. This, sir, is not fancy; these scenes, but a few months ago, I witnessed in person, among emigrants going to this said Missouri. Our humanity may be called sickly, but it gives no sanction to scenes like these.

Gentlemen have endeavored to prove that, by opening the extensive regions of the West to the introduction of slaves, nothing is thereby done to spread slavery; that, whether they are admitted west of the Mississippi or not, the number remains the same. I presume, sir, that every gentleman here has paid some attention to the principle which governs the population of the human race. It is capable of demonstration that the population increases faster than the means of subsistence; the one increases in a geometrical, the other in an arithmetical, progression. In every nation the population presses more or less against the means of subsistence, and from its very nature must continue to do so until the end of time.¹

¹The doctrine of the Rev. Thomas Robert Malthus.
IV—b

by latitude and longitude, which is inoperative on the left, but is omnipotent on the right bank of a river? Such a doctrine is well calculated to excite our solicitude; for, although the gentlemen who now hold it are sincere in their declarations, and mean to content themselves with a triumph in this controversy, what security have we that others will not apply the doctrine to the South generally?

Let it not be supposed that in the abstract I am advocating slavery. Take all other human things, it is mixed with good and evil—the latter, no doubt, preponderating. Whether slavery was ordained by God himself in a particular revelation to his chosen people, or whether it be merely permitted as a part of that moral evil which seems to be the inevitable portion of man, are questions I will not approach; I leave them to the casuists and the divines. It is sufficient for us, as statesmen, to know that it has existed from the earliest ages of the world, and that to us has been assigned such a portion as, in reference to their number and the various considerations resulting from a change of their condition, no remedy, even plausible, has been suggested, though wisdom and benevolence united have unceasingly bemoaned over the subject.

However dark and inevitable may be the ways of heaven, who is he that arrogantly presumes to arraign them? The same mighty power that planted the greater and the lesser luminary in the heavens permits on earth the bondman and the free. To that Providence, as men and Christians, let us bow. If it be consistent with his will, in the fulness of time, to break the fetter of the slave, he will raise up some Moses to be their deliverer. To him commission will be given to lead them up out of the land of bondage. At his approach, seas will subside and mountains disappear. When the revelation shall be made, and the jubilee of emancipation be proclaimed, philanthropy will lift its voice to swell the joyful note, which, sweeping the continent and the isles of the new world, and resounding through the old, shall cause the oppressor to let go his prey, the dungeon to surrender its victim, and give emancipation to the slave. Till then let us draw consolation from the reflection that, however incomprehensible this dispensation may be to us, it is a link in that great concatenation which is permitted by omnipotent power and goodness, and must issue in universal good.

Senator Rufus King of New York followed with a speech which was not reported. Its arguments can, however, be inferred from the succeeding speech of

Apply these principles to the case before us, and what becomes of the gentleman's argument? Seventy years ago the penetrating mind of Dr. Franklin discovered this principle. Go, says he, to Africa, and see if you can discover the gap from whence the negroes have come, that have blackened half America, the West Indies, and many other places! The spring of population will always keep the number full. A market extended as the forests of your Western regions is thus opened for the sale of human flesh. Every inducement which avarice or the insatiable love of gain could desire is held out to the slaveholder to increase the number of his slaves. Under such inducements this class of population will increase with a rapidity heretofore unknown. Even at the rate of increase from 1800 to 1810, in a single century there will be upward of twenty-seven millions of slaves in the United States. This single fact, founded as it is on arithmetical certainty, is sufficiently alarming; but, sir, it points you to a very different policy from the one contended for by the honorable members on the other side.

SENATOR VAN DYKE.—Sir, it must be admitted by every statesman that this Constitution never was designed to have jurisdiction over the domestic concerns of the people in the several States. No, sir, these are wisely left exclusively to the State sovereignties, as their natural guardians. The proposed amendment, if adopted, will regulate, by an irrevocable provision in a statute, one of the domestic relations of the people of the State of Missouri. If Congress can regulate one, why not all of these domestic relations? Even the contract of marriage and the period of release from guardianship may become the subject of discussion in some future Congress, on the admission of some future State. If such a power exists, who shall stay its hand or prescribe its limits?

SENATOR BARBOUR.—The gentleman from Pennsylvania asks shall we suffer Missouri to come into the Union with the savage mark of slavery on her countenance? I appeal to that gentleman to know whether this be language to address to an American Senate, composed equally of members from States precisely in the condition that Missouri would be in, were she to tolerate slavery. Are these sentiments calculated to cherish that harmony and affection so essential to any beneficial results from our Union? But, sir, I will not imitate this course, and I will strive to repress the feeling which such remarks are calculated to awaken.

Gentlemen assure us that they do not mean to touch slavery in the old States. What kind of ethics is this that is bounded

Senator William Pinkney of Maryland. These two were the giants of the contest.

SENATOR PINKNEY.—Mr. President, the sentiments of the gentleman from New York [Senator King], if not borrowed from, are identical with, the worst visions of the political philosophy of France when all the elements of discord and misrule were let loose upon that devoted nation. I mean "the infinite perfectibility of man and his institutions," and the resolution of everything into a state of nature.

Sir, it is not an occasion like this, although connected, as contrary to all reasonable expectation it has been, with these fearful and disorganizing theories, which would make our estimates, whether fanciful or sound, of natural law, the measure of civil rights and political sovereignty in the social state, that can harm the Union. It must indeed be a mighty storm that can push from its moorings this sacred bark of the common safety. I will continue to cherish the belief, in defiance of the deadly speculations which, invoking the name of God to aid their faculties for mischief, strike at all establishments, that the union of these States is formed to bear up against far greater shocks than, through all vicissitudes, it is ever likely to encounter.

Sir, it is avowed that, while Maine is to be ushered into the Union with every possible demonstration of studious reverence on our part, and on hers with colors flying, and all the other graceful accompaniments of honorable triumph, the more infantine and feeble Missouri is to be repelled with harshness, and forbidden to come at all unless with the iron collar of servitude about her neck, instead of the civic crown of republican freedom upon her brows, and is to be doomed forever to leading strings unless she will exchange those leading strings for shackles.

I am told that you have the power to establish this odious and revolting distinction, and I am referred for the proofs of that power to various parts of the Constitution, but principally to that part of it which authorizes the admission of new States into the Union.

I think I may assume that if such a power be anything but nominal it is much more than adequate to the present object; that it is a power of vast expansion, to which human sagacity can assign no reasonable limits; that is a capacious reservoir of authority, from which you may take, in all time to come, as occasion may serve, the means of oppression as well as of beneficence.



John Pickens

I shall not, I am sure, be told that I exaggerate this power. No man can contradict me when I say that, if you have this power, you may squeeze down a new-born sovereign State to the size of a pigmy, and then, taking it between finger and thumb, stick it into some niche of the Union, and still continue, by way of mockery, to call it a State in the sense of the Constitution. You may reduce it to a thing of skin and bone, and then place the ominous skeleton beside the ruddy and healthful members of the Union, that it may have leisure to mourn the lamentable difference between itself and its companions, to brood over its disastrous position, and to seek, in justifiable discontent, an opportunity for separation, and insurrection and rebellion. What may you not do by dexterity and perseverance with this terrific power? You may give to a new State, in the form of terms which it cannot refuse, a statute book of a thousand volumes, providing not for ordinary cases only, but even for possibilities; you may lay the yoke, no matter whether light or heavy, upon the necks of the latest posterity; you may send this searching power into every hamlet for centuries to come, by laws enacted in the spirit of prophecy, and regulating all those dear relations of domestic concern which belong to local legislation, and which even local legislation touches with a delicate and sparing hand. This is the first inroad. But will it be the last? This provision is but a pioneer for others of a more desolating aspect. It is that fatal bridge of which Milton speaks,¹ and when once firmly built, what shall hinder you to pass it when you please for the purpose of plundering power after power, at the expense of new States, as you will still continue to call them, and raising up prospective ills, irrevocable and immortal, which shall leave to those States the empty shadows of domestic sovereignty, and convert them into petty pageants, in themselves contemptible, but rendered infinitely more so by the contrast of their humble faculties with the proud and admitted pretensions of those who, having doomed them to the inferiority of vassals, have condescended to take them into their society and under their protection?

"New States may be admitted by the Congress into this Union." It is objected that the word "may" imports power, not obligation—a right to decide—a discretion to grant or refuse.

To this it might be answered that *power is duty*, on many occasions. But let it be conceded that it is discretionary. What

¹ Over the Hellespont, across which Xerxes passed "the liberties of Greece to yoke."

consequence follows? A power to refuse, in a case like this, does not necessarily involve a power to exact terms. You must look to the *result*, which is the declared object of the power. Whether you will arrive at it or not may depend on your will; but you cannot compromise with the result intended and professed.

What, then, is the professed result? To admit a State into this Union.

What is that Union? A confederation of States equal in sovereignty, capable of everything which the Constitution does not forbid, or authorize Congress to forbid. It is an equal Union between parties equally sovereign. They were sovereign, independently of the Union. The object of the Union was common protection for the exercise of already existing sovereignty. The parties gave up a portion of that sovereignty to insure the remainder. As far as they gave it up by the common compact they have ceased to be sovereign. The Union provides the means of defending the residue, and it is into that Union that a new State is to come. By acceding to it the new State is placed on the same footing with the original States. It accedes for the same purpose; that is, protection for its unsundered sovereignty. If it comes in shorn of its beams—crippled and disparaged beyond the original States—it is not into the original Union that it comes. For it is a different sort of Union. The first was Union *inter pares*; this is a Union between *disparates*, between giants and a dwarf, between power and feebleness, between full proportioned sovereignties and a miserable image of power—a thing which that very Union has shrunk and shriveled from its just size, instead of preserving it in its true dimensions.

It is into "this Union"—that is, the Union of the Federal Constitution—that you are to admit or refuse to admit. You can admit into no other. You cannot make the Union, as to the new State, what it is not as to the old; for then it is not *this Union* that you open for the entrance of a new party. If you make it enter into a new and additional compact, is it any longer the same Union?

If I am told that, by the bill relative to Missouri, you do not legislate upon a New State, I answer that you do; and I answer, further, that it is immaterial whether you do or not. But it is upon Missouri, as a State, that your terms and conditions are to act. Until Missouri is a State, the terms and conditions are nothing. You legislate in the shape of terms and conditions prospectively; and you so legislate upon it that when it

comes into the Union it is bound by a contract degrading and diminishing its sovereignty, and is to be stripped of rights which the original parties to the Union did not consent to abandon, and which that Union (so far as depends upon it) takes under its protection and guaranty.

It is said that the word *may* necessarily implies the right of prescribing the terms of admission.

Give to that word all the force you please, what does it import? That Congress is not *bound* to admit a new State into this Union. Be it so for argument's sake. Does it follow that when you consent to admit into this Union a new State you can make it less in sovereign power than the original parties to that Union; that you can make the Union as to it what it is not as to them; that you can fashion it to your liking by compelling it to purchase admission into a Union by sacrificing a portion of that power which it is the sole purpose of the Union to maintain in all the plenitude which the Union itself does not impair? Does it follow that you can force upon it an additional compact not found in the compact of Union; that you can make it come into the Union less a State, in regard to sovereign power, than its fellows in that Union; that you can cripple its legislative competency (beyond the constitution which is the pact of Union, to which you make it a party as if it had been originally a party to it) by what you choose to call a *condition*, but which, whatever it may be called, brings the new government into the Union under new obligations to it, and with disparaged power to be protected by it?

I may be told, perhaps, that the restriction, in this case, is the act of Missouri itself; that your law is nothing without its consent, and derives its efficacy from that alone.

No State or Territory, in order to become a State, can alienate or surrender any portion of its sovereignty. It is under an incapacity to disqualify itself for all the purposes of government left to it in the Constitution, by stripping itself of attributes which arise from the natural equality of States, and which the Constitution recognizes, not only because it does not deny them, but presumes them to remain as they exist by the law of nature and nations. Inequality in the sovereignty of States is unnatural, and repugnant to all the principles of that law. Hence we find it laid down by the text writers on public law that "Nature has established a perfect equality of rights between independent nations"; and that, "whatever the quality of a free sovereign nation gives to one it gives to another."¹

¹ Vattel, *Droit des Gens*, liv. 2, c. 3, s. 80.

The Constitution of the United States proceeds upon the truth of this doctrine. It takes the States as its finds them, *free and sovereign alike by nature*. It receives from them portions of their power for the general good, and provides for the exercise of it by organized political bodies. It diminishes the individual sovereignty of each, and transfers what it abstracts to the Government which it creates; it takes from all alike, and leaves them relatively to each other equal in sovereign power.

One of the most signal errors with which the argument on the other side has abounded is this of considering the proposed restriction as if leveled at the introduction or establishment of slavery. And hence the vehement declamation which, among other things, has informed us that slavery originated in fraud or violence.

That slavery, like many other human institutions, originated in fraud or violence may be conceded; but, however it originated, it is established among us, and no man seeks a further establishment of it by new importations of freemen to be converted into slaves.

It can be nothing to the purpose of this argument, therefore, as the gentlemen themselves have shaped it, to inquire what was the origin of slavery. What is it now, and who are they that endeavor to innovate upon what it now is (the advocates of this restriction who desire change by unconstitutional means, or its opponents who desire to leave the whole matter to local regulation) are the only questions worthy of attention.

Sir, if we too closely look to the rise and progress of long-continued establishments and unquestioned rights, we may discover other subjects than that of slavery with which fraud and violence may claim a fearful connection, and over which it may be our interest to throw the mantle of oblivion. What was the settlement of our ancestors in this country but an invasion of the rights of the barbarians who inhabited it? That settlement, with slight exceptions, was effected by the slaughter of those who did no more than defend their native land against the intruders of Europe, or by unequal compacts and purchases, in which feebleness and ignorance had to deal with power and cunning. The savages who once built their huts where this proud capitol,¹ rising from its recent ashes, exemplifies the sovereignty of the American people, were swept away by the injustice of our fathers, and their domain usurped by force, or obtained by artifice yet more criminal. Our continent was full of those aboriginal inhabitants. Where are they or their de-

¹ The new capitol was first occupied during this session.

The gentlemen can scarcely be sincere believers in their own principle. They have apprehensions, which they endeavor to conceal, that Missouri, as a State, will have the power to continue slavery within its limits; and, if they will not be offended, I will venture to compare them, in this particular, with the duelist in Sheridan's comedy of "The Rivals," who, affecting to have no fear whatever of his adversary, is, nevertheless, careful to admonish Sir Lucius to hold him fast.

Let us take it for granted, however, that they are in earnest in their doctrine, and that it is very necessary to impose what they prove to be an unnecessary restraint; how do they support that doctrine?

The honorable gentleman on the other side [Mr. King] has told us, as a proof of his great position, that man cannot enslave his fellow man, in which is implied that all laws upholding slavery are absolute nullities; that the nations of antiquity, as well as of modern times, have concurred in laying down that position as incontrovertible.

He refers us, in the first place, to the Roman law, in which he finds it laid down as a maxim: *Jure naturalis omnes homines ab initio liberi nascebantur*.¹ From the manner in which this maxim was pressed upon us, it would not readily have been conjectured that the honorable gentleman who used it had borrowed it from a slaveholding empire, and still less from a book of the Institutes of Justinian, which treats of slavery, and justifies and regulates it. Had he given us the context, we should have had the modifications of which the abstract doctrine was, in the judgment of the Roman law, susceptible. We should have had an explanation of the competency of that law, to convert, whether justly or unjustly, freedom into servitude, and to maintain the right of a master to the service and obedience of his slave.

The honorable gentleman might also have gone to Greece for a similar maxim and a similar commentary, speculative and practical.

He next refers us to Magna Charta. I am somewhat familiar with Magna Charta, and I am confident that it contains no such maxim as the honorable gentleman thinks he has discovered in it. The great charter was extorted from John, and his feeble son and successor, by haughty slaveholding barons, who thought only of themselves and the commons of England (then inconsiderable), whom they wished to enlist in their efforts against the Crown. There is not in it a single word which

¹ "By natural right all men from the beginning were born free."

scendants? Either "with years beyond the flood," or driven back by the swelling tide of our population from the borders of the Atlantic to the deserts of the West. You follow still the miserable remnants, and make contracts with them that seal their ruin. You purchase their lands, of which they know not the value, in order that you may sell them to advantage, increase your treasure, and enlarge your empire. Yet further; you pursue as they retire; and they must continue to retire until the Pacific shall stay their retreat, and compel them to pass away as a dream. Will you recur to those scenes of various iniquity for any other purpose than to regret and lament them? Will you pry into them with a view to shake and impair your rights of property and dominion?

If it is incompetent to sovereign power to continue slavery in Missouri, in respect of slaves who may yet be carried thither, show me the power that can continue it in respect of slaves who are there already. Missouri is out of the old limits of the Union, and beyond those limits, it is said, we can give no countenance to slavery, if we can countenance or tolerate it anywhere. It is plain that there can be no slaves beyond the Mississippi at this moment but in virtue of some power to make or keep them so. What sort of power was it that has made or kept them so? Sovereign power it could not be, according to the honorable gentlemen from Pennsylvania and New Hampshire [Messrs. Roberts, Lowrie, and Morrill], and if sovereign power is unequal to such a purpose, less than sovereign power is yet more unequal to it. The laws of Spain and France could do nothing; the laws of the territorial government of Missouri could do nothing toward such a result, if it be a result which no laws, in other words, no sovereignty, could accomplish. The treaty of 1803 could do no more in this view than the laws of France, or Spain, or the territorial government of Missouri. A treaty is an act of sovereign power, taking the shape of a compact between the parties to it; and that which sovereign power cannot reach at all it cannot reach by a treaty. Those who are now held in bondage, therefore, in Missouri, and their issue are entitled to be free, if there be any truth in the doctrine of the honorable gentlemen; and if the proposed restriction leaves all such in slavery it thus discredits the very foundation on which it reposes. To be inconsistent is the fate of false principles; but this inconsistency is the more to be remarked, since it cannot be referred to mere considerations of policy, without admitting that such considerations may be preferred, without a crime, to what is deemed a paramount and indispensable duty.

condemns civil slavery. Freemen only are the objects of its protecting care. "*Nullus liber homo*" is its phraseology. The serfs who were chained to the soil, the villains regardant and in gross were left as it found them. All England was then full of slaves, whose posterity would by law remain slaves as with us, except only that the issue followed the condition of the father instead of the mother. The rule was "*Partus sequitur patrem*,"¹ — a rule more favorable undoubtedly, from the very precariousness of its application, to the gradual extinction of slavery, than ours, which has been drawn from the Roman law, and is of sure and unavoidable effect.

Of the Declaration of our Independence, which has also been quoted in support of the perilous doctrines now urged upon us, I need not now speak at large. The self-evident truths announced in the Declaration of Independence are not truths at all, if taken literally; and the practical conclusions contained in the same passage of that declaration prove that they were never designed to be so received.

The Articles of Confederation contain nothing on the subject, while the actual Constitution recognizes the legal existence of slavery by various provisions. The power of prohibiting the slave trade is involved in that of regulating commerce, but this is coupled with an express inhibition to the exercise of it for twenty years. How, then, can that Constitution which expressly permits the importation of slaves authorize the national government to set on foot a crusade against slavery?

The clause respecting fugitive slaves is affirmative and active in its effects. It is a direct sanction and positive protection of the right of the master to the services of his slave, as derived under the local laws of the States. The phraseology in which it is wrapped up still leaves the intention clear, and the words, "persons held to service or labor in one State under the laws thereof," have always been interpreted to extend to the case of slaves, in the various acts of Congress which have been passed to give efficacy to the provision, and in the judicial application of those laws. So also in the clause prescribing the ratio of representation—the phrase, "three-fifths of all other persons," is equivalent to *slaves*, or it means nothing. And yet we are told that those who are acting under a Constitution which sanctions the existence of slavery in those States which choose to tolerate it are at liberty to hold that no law can sanction its existence!

¹ "The offspring follows [the condition of] the father." In Roman law, *ventrem*, the womb, is substituted for *patrem*.

We are informed that there is a clause in the Constitution which declares that Congress shall guarantee to every State a republican form of government; that slavery and such a form of government are incompatible; and, finally, as a conclusion from these premises, that Congress not only have a *right*, but are *bound* to exclude slavery from a new State. Here, again, sir, there is an edifying inconsistency between the argument and the measure which it professes to vindicate. By the argument, it is maintained that Missouri cannot have a republican form of government and at the same time tolerate negro slavery. By the measure it is admitted that Missouri may tolerate slavery, as to persons already in bondage there, and be nevertheless fit to be received into the Union. What sort of Constitutional mandate is this, which can thus be made to bend, and truckle, and compromise, as if it were a simple rule of expediency that might admit of exceptions upon motives of countervailing expediency? There can be no such pliancy in the peremptory provisions of the Constitution. They cannot be obeyed by moieties and violated in the same ratio. They must be followed out to their full extent, or treated with that decent neglect which has at least the merit of forbearing to render contumacy obtrusive by an ostentatious display of the very duty which we in part abandon. If the Decalogue could be observed in this casuistical manner, we might be grievous sinners, and yet be liable to no reproach. We might persist in all our habitual irregularities, and still be spotless. We might, for example, continue to covet our neighbors' goods, provided they were the same neighbors whose goods we had before coveted, and so of all the other commandments.

The debates in the House of Representatives on the various phases of the Missouri bill extended from January 26 to March 2, 1820. In these the speakers were clearly aligned as pro-slavery or anti-slavery in sentiment, the two classes with few exceptions hailing the one from the North, the other from the South.

The chief pro-slavery speakers were: Alexander Smyth [Va.], Robert W. Reid [Ga.], Benjamin Hardin [Ky.], Louis McLane [Del.], Philip P. Barbour [Va.], Charles Pinckney [S. C.] and John Tyler [Va.]; the leading anti-slavery speakers were: Henry Meigs [N. Y.], John W. Taylor [N. Y.], Joseph Hemphill [Pa.], John Sergeant [Pa.], William Darlington [Pa.] and James Stevens [Conn.].

Henry Clay, as Speaker of the House, did not take a prominent part in the debate nor was he called on to vote upon the measure. "It was afterwards," says Senator Benton, "when the constitution formed by Missouri was resisted on account of the free negro and mulatto clause, and which revived the original question with all its portentous consequences, that Mr. Clay took the lead which earned for him the title of Pacificator."

The debate in the House centered around the Taylor compromise proviso.

THE MISSOURI COMPROMISE

HOUSE OF REPRESENTATIVES, JANUARY 26-MARCH 2, 1820

On January 26 Mr. Meigs introduced a resolution devoting the public lands to the colonization of freedmen. He said:

There is a wonderful singularity in the present controversy, which destroys all confidence in the weight and value of that process of mind which we so proudly dignify with the title of reasoning. Sir, I never yet knew that reason and logic were to be found on this side or that of a parallel of latitude or longitude. What is the fact in this case? Why, sir, the parallel of latitude of 39 degrees almost precisely marks the division between the reason and argument of the North and South. That line of demarcation separates the slaveholding from the non-slaveholding States. On the south side of that line we find the climate and soil adapted to slaves, and there are the slaves; on the north side of that line we discover that the soil and climate require no slaves, and, therefore, few or no slaves are found. What, sir! is it possible, then, that one-half of us can be rationally and argumentatively on one side of the parallel of latitude, and the other half of us upon the other? I did believe that the truths of philosophy, that reason, that the Principia of Newton were the same in every latitude, in every climate, and on every soil of this globe.

Reason divided by parallels of latitude! Why, sir, it is easy for prejudice and malevolence, by aid of ingenuity, to erect an eternal, impenetrable wall of brass between the North and South, at the latitude of thirty-nine degrees! But, in the view of reason, there is no other line between them than that celestial

arc of thirty-nine degrees which offers no barrier to the march of liberal and rational men.

Sir, we have been now for a long time occupied in this debate, mispending our time and the public money. I feel well assured that the body of the people will judge our conduct rightly. They will soon ask us what is the controversy about? Did you, from motives of policy and regard for the welfare of the whites, propose to remove the growing black race from this country? No. Did you, actuated by humane considerations for the unfortunate slaves, propose to redeem them from their bondage and restore them to liberty and the land of their fathers? No. What then? Did you propose to draw such lines of restriction around the slave population as would ere long starve them out, and so prevent their becoming dangerous to the whites? If you did, remember that such is the increasing kindness of the slaveholders, so ameliorated the condition of the slave, that not one slave, not one child less will be born, and not one can die by starvation. Sir, the truth is that nothing has yet been proposed beneficial either to the white or black race in all this long-drawn debate. Give me leave to say, sir, that this consideration induced me to introduce the resolution which now lies upon the table, devoting the public lands to the emancipation and colonization of the unfortunate slaves. If we want some object upon which to exhaust our enthusiasm, here is one worth it all. Not the subjugation of a people, but the redemption of a nation.

Mr. Taylor moved to amend the bill by inserting a clause restricting slavery with a proviso for the return of fugitive slaves.

He supported his amendment with the argument that the power of holding slaves was not a Federal right.

Congress, within its sovereignty, has constantly endeavored to prevent the extension of slavery, and has maintained the doctrine "that all men are born equally free," but has disclaimed, and continues to disclaim, any right to enforce this doctrine upon State sovereignties.

Mr. Smyth opposed this view. He said:

The right to own slaves being acknowledged and secured by the Constitution, can you proscribe what the Constitution guar-

antees! Can you touch a right reserved to the States or the people? You cannot.

If you possessed power to legislate concerning slavery, the adoption of the proposition on your table, which goes to emancipate all children of slaves hereafter born in Missouri, would be a direct violation of the Constitution, which provides that "no person shall be deprived of property without due process of law; nor shall private property be taken for public use without just compensation." And, if you cannot take away that which is in existence, you cannot take away that which will come into existence hereafter. If you cannot take away the land, you cannot take the future crops; and if you cannot take the slaves, you cannot take their issue, who, by the laws of slavery, will be also slaves. You cannot force the people to give up their property. You cannot force a portion of the people to emancipate their slaves.

It has been said that the Constitution vests in Congress a power to make all needful regulations respecting the territory of the United States; and this power, it is supposed, authorizes us to exclude slaves from the territories of the United States, and also to demand from any of those territories about to become States a stipulation for the exclusion of slaves. The clause obviously relates to the territory belonging to the United States as property only. It speaks not of the jurisdiction. A power to dispose of and make all needful regulations respecting the property of the United States is very different from a power to legislate over the persons and property of the people. When the property of the United States is sold and conveyed, it ceases to be an object of the power to make regulations respecting it.

By treaty we are bound to admit Missouri into the Union; to allow her a representation for her slaves; to guarantee to her a republican form of government (that is, a government by and for the people themselves, not a government imposed on them, nor a patrimonial government); and to leave her all power not delegated by the Constitution to the United States, nor prohibited by it to the States. Treaties are in part the supreme law of the land and paramount to the constitution of any State; yet you propose to violate the treaty with France by the means of a State constitution, which is of inferior obligation to a treaty.

Every State is interested that every other State shall preserve its rights. The States should possess the same rights, so that the invasion of the rights of one should be the invasion

of the rights of all. You will unite in opposition to the States, you will form local parties, the most dangerous of all parties; you will unite the State governments, defending State rights, to the people, defending their property to the amount of five hundred millions. Louisiana, being equally interested in the construction of the treaty, must make common cause with Missouri, and the other slaveholding States may make common cause with them.

If you let the people of Missouri alone to exercise the right of self-government, as it is exercised by the people of the other States, perhaps they may of themselves exclude slavery. If such be their sovereign will and pleasure, be it so. Let the will of the people be done. But if you attempt to force your own will upon them, perhaps they may know and duly appreciate their rights. Then they will not give up the sacred right of self-government. The people who have not a right to legislate for themselves are not free. They do not enjoy a republican form of government. It would be an event to be lamented if any portion of this free people should give up their constitutional rights.

Mr. Reid acknowledged that slavery was "an unnatural state; a dark cloud which obscures half the luster of our free institutions," but he claimed that it was "a fixed evil which we can only alleviate." The welfare of both whites and blacks forbade emancipation.

Can we incorporate them [the blacks] with us, and make them and us one people? The prejudices of the North and of the South rise up in equal strength against such a measure, and even those who clamor most loudly for the sublime doctrine of your Declaration of Independence, who shout in your ears, "all men are by nature equal!" would turn with abhorrence and disgust from a partitioned progeny! Shall we then be blamed for a state of things to which we are obliged to submit? Would it be fair; would it be manly; would it be generous; would it be just, to offer continuance and endorsement to the unfortunate man who wears a cancer in his bosom, because he will not submit to cauterize at the hazard of his existence? For my own part, surrounded by slavery from my cradle to the present moment, I get

"Hate the touch of servile hands;
I loathe the sight who strike around!"

that it was, as charged, "the production of usurped power." The States having relinquished power over the Northwest Territory, Congress had been compelled to organize a government there. It had the power to restrict slavery, and, believing it right to do so, had restricted it. When the Territory was divided into States the people endorsed the restriction.

The Constitutional Convention validated the acts of the Congress under the Confederation, including the Ordinance of 1787.

Could the present question in any shape have been proposed to the convention, I appeal to the honor of the committee if, in their opinion, it would have been sustained for a moment by the patriots of that early day? Slavery in the old States could not be extinguished, but, as to States that were to grow up out of the Constitution, it never was intended that they should be inconsistent with the solemn professions made to the world.

Mr. Hemphill argued that the situations of Missouri and of the Northwest Territory were identical with respect to the fact that both regions were "common funds" of the nation. Therefore there was no more injustice in forbidding slaveholders to take their slaves into Missouri than in debarring them from so entering Ohio, Indiana, or Illinois. Let them take their favorite negroes with them as free persons, and the generous act would be repaid by a life-long attachment to them of the grateful servants.

Mr. Hemphill opposed any compromise on the subject. With clear prescience he said:

Under the circumstances, it will be impossible to compromise a question of this character. A compromise usually has for its basis mutual concessions, which are equally obligatory; but, if we should pass a law excluding slavery from the remaining territory, where would be the security that another Congress would not repeal it? It will be but an ordinary act of legislation, and whenever there shall be an application for a new State we shall be met with the same constitutional objections that now exist. It is, in fact, yielding all for which we

and I would hail that day as the most glorious in its dawning which should behold, with safety to themselves and our citizens, the black population of the United States placed upon the high eminence of equal rights, and clothed in the privileges and humanities of American citizens! But this is a dream of philanthropy which can never be fulfilled; and whoever shall act in this country upon such wild theories shall cease to be a benefactor and become a destroyer of the human family.

Mr. Reid then argued that slavery should be admitted into the Territories in order to lessen the evil by scattering it.

Slaves, divided among many masters, will enjoy greater privileges and comforts than those who, cramped within a narrow sphere and under few owners, will be doomed to drag a long, heavy, and clanking chain through the space of their existence. Danger from insurrection will diminish. Confidence will grow between the master and his servant. The one will no longer be considered as a mere beast of burden, the other as a remorseless despot void of feeling and compassion. In proportion as few slaves are possessed by the same individual will he look with less reluctance to the prospect of their ultimate liberation. Emancipations will become common, and who knows but that the Great Being, to whose merces all men have an equal claim, may, in the fulness of his time, work a miracle in behalf of the trampled rights of human nature?

On February 4 Mr. Hardin said that the South in this controversy was contending not for victory, but for its political existence.

We have already surrendered to the non-slaveholding States all that region of the American empire between the great rivers Ohio and Mississippi; and if you tear from us that immense country west of the Mississippi, we may at once surrender at discretion, crouch at the feet of our adversaries, and beg mercy of our proud and haughty victors.

Mr. Hardin then suggested that what was essentially the Missouri Compromise be adopted.

Mr. Hemphill discussed the Ordinance of 1787 in its relation to the subject under discussion. He denied

IV—2

that it was, as charged, "the production of usurped power." The States having relinquished power over the Northwest Territory, Congress had been compelled to organize a government there. It had the power to restrict slavery, and, believing it right to do so, had restricted it. When the Territory was divided into States the people endorsed the restriction.

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have been contending, and, if we once give up the ship, slavery will be tolerated in the State of Missouri and we can never alter remove it.

It is true that a compromise was made on the subject of slavery at the adoption of the Constitution, but it was one of an obligatory nature, and it arose out of circumstances that could not be controlled. The Constitution was necessary to save us from domestic discord and foreign ambition; we were then in our infancy; but, now our national strength bids defiance to any nation, where, I ask, is the necessity of deceiving ourselves or our constituents by this mere pretence of a compromise?

The gentlemen on the other side tell us that, if the restriction is carried, the Union will be dissolved. I have a more exalted opinion of the patriotism of the South; they will never cause American blood to be spilled, unless for reasons that would justify them in the eyes of the world; and, in the language of Mr. Jefferson, "the Almighty has no attribute that would side with them in such a cause as this would be." Has it come to this, that the extension of slavery is to be considered as one of the pillars of our liberty? This, indeed, would be a political paradox.

Mr. Melane denied that the Declaration of Independence was referred to slaves.

The Declaration was the act of open resistance on the part of the white freemen of the colonies against the pretensions of the mother country to govern them without their consent; to assert their inalienable right of self-government, and to alter or abolish it whenever it should be necessary to affect their safety and happiness. It was the resistance of freemen to the assumption of a power on the part of Great Britain, precisely similar to that which we are now endeavoring to impose upon the people of Missouri. It expressly asserts the principles that "all just powers of government are derived from the consent of the governed" and the right of the people to alter or abolish and institute it anew, as to them shall seem most likely to affect their safety and happiness." I do not deny that the principles of the Declaration of Independence are those of the Constitution; on the contrary, I admit that they are those upon which all our institutions repose; they are those upon which the people of Missouri claim the right to make their own constitution, and resist the imposition of any species of government deriving its powers from any other source. But I contend that

it never designed to assume or assert any principle whatsoever in regard to the slave population of the United States, and therefore that it cannot be used in this debate, either as declaratory of their rights or explanatory of the principles of the Constitution and Government in their behalf. It is unreasonable to assert the contrary, when everyone knows that, while the freemen of this country were openly resisting the usurpations of the British Crown, they did not relax in the slightest degree their hold upon the negro slave; and to him it was a matter of entire unconcern who should govern his master, as in all conditions his master would continue to govern him.

I do not advocate the consistency of all this: I take things as I find them under our form of government; though when we throw our eyes toward St. Domingo, and reflect upon the scenes which ensued—the headless enthusiasm which characterized the French Revolution—we cannot fail to admire the cautious wisdom of our ancestors in not hazarding the great object of their struggle by suddenly letting loose their unfortunate, though degraded, slave population. Besides, sir, the principles of the Declaration of Independence would not be satisfied by merely loosening the shackles of the slaves; they would assert not only the rights of a freeman but an equality of those rights, civil and political. And where is the State in the Union in which the emancipated negro has been admitted to the enjoyment of equal rights with the white population? I know of none.

Mr. McLane then replied to the argument that Congress could restrict slavery in a new State because of its constitutional power to make "all needful rules and regulations respecting the territory or other property belonging to the United States."

This clause, he said, was designed to relate to revenue. Nevertheless he admitted it was a plenary grant, but only so long as the regions affected remained in a state of territorial dependence.

The instant we authorize a Territory to form its constitution to enter the Union, its territorial disabilities and the power of Congress over it crumble together in the dust.

He also denied that the power to restrict slavery in a new State could be derived from the interstate com-

merce clause of the Constitution. The prevention in the clause of the migration or importation of certain persons until 1808 related to foreign immigrants only.

The word "migration" cannot apply to the forcible or involuntary removal of a slave from any state, foreign or domestic. It is the voluntary act of a free agent; and a slave has no such will, and is no such agent. It is no exercise of a right when the unhappy slave is taken by his owner from place to place—he obeys a hard fate which he cannot control, and he can with no more propriety be said to migrate than the oxen who is driven from his family and home into involuntary banishment.

Mr. McLane, as a conclusion of his reasoning, argued for restriction of slavery in a territory, but none when it entered the Union. This was a practical solution of the problem, since the applicant for statehood having no slaves in its borders would naturally, of its own desire, restrict slavery in forming its constitution.

Mr. Sargent spoke against compromise as forbidden by the principles of both sides of the controversy. For his part he would never agree to the admission of Missouri with slavery. Slavery once introduced there, the hope of extinguishing it by emigration was destroyed. The reduction in the value of slaves was the only inducement that would ever effect the abolition of the evil institution.

Mr. Barbour repeated his former claim that the Ordinance of 1787 was a usurpation. On this point he quoted an extract from "The Federalist," No. 43, affirming that the acts of the "Old Congress" were "without the least color of constitutional authority." In his "Debates of Congress" Thomas H. Benton gives the following note on this point:

The phrase "constitutional authority," as here used by Mr. Madison, who was the author of this number, could not apply to the Constitution of the United States, as the ordinance was made before that instrument. It could refer only to the Articles of Confederation, which gave the fundamental law to the Old Congress, and was, in fact, its Constitution; and which, un-

tainly, gave to the Congress none of the powers exercised in the enactment of the ordinance; nor was it supposed to grant such powers at the time.

Answering the contention that slavery, being a question adjusted in the Constitution by compromise, was a matter between only the original thirteen States who formed the Constitution, he said:

There were other subjects besides slavery adjusted by compromise; I will mention the most prominent one—that of an equal representation in the Senate. This is incontestably proven by the circumstance that, in the clause providing for amendments, it is declared that the Constitution shall not even be so amended as to deprive any State of its equal suffrage in the Senate without its own consent; this is the only provision which is forever put beyond the reach of amendment, in the ordinary mode. Now, sir, this was emphatically the work of a compromise in a vital part of the Constitution; the principle of gentlemen, if true, would lead to the conclusion that the new States were not entitled to the benefit of this provision, because they were not parties to the compromise; yet no gentleman will maintain this position; and, if he will not, he must give up the other upon the subject of slavery.

But, say, gentlemen, the powers which the Constitution does not give us we can get from the several States by compact. They say that both the United States and the State of Missouri are competent to make a contract; and that, if the one party make a proposition, and the other accept it, this is obligatory on them both. Even if this principle were true, an abundant answer is furnished by an argument which I believe has been already urged, and which I shall therefore only state, without pursuing it; it is that, by the treaty, which was a compact prior in point of time, and paramount in point of obligation, the people of Missouri have acquired certain rights, that therefore it is not competent for you, merely because you are the stronger, to say that you will not comply with its stipulations unless they will agree to another compact, the effect of which will be to deprive them of one of the rights which it gave them.

Gentlemen say that slavery is a moral wrong, and as such cannot be the subject of sovereignty; I answer that it is essential to sovereignty, and the highest act of its exercise is decide what is embraced within its limits, and that the very act of one government attempting to decide this question for another is a

glaring violation of the sovereignty of that other; I answer further that sovereignty, in relation to the internal concerns of a State, has no limits but the observation and moral sense of the State itself, unless it relate to a subject the power over which has been specially delegated, and it has been the purpose of my whole argument to prove that this has not been so delegated. Suppose that a state, like ancient Sparta, should by its laws even sanction the barbarous practice of putting its debtors to death; suppose that it was so bad to the moral sense as to permit the most odious crimes against the laws of morality or religion to escape with impunity; have we the power to interfere in these matters of unscripted legislation, unless it be in relation to a subject over which the Constitution gives us power? I must be pardoned for repeating that we have no more than one of the governments of Europe.

The next clause from which the right to impose this restriction is derived is that which gives us power to make all needful rules and regulations respecting the territory of the United States. I beg leave to remind the amendment that, as it respects the new Territory of Missouri, we have, by one of our own regulations, given it a legislative body; that we have extended to that body the whole power of legislation, subject only to the limitation that their laws shall not be inconsistent with the Constitution and laws of the United States; a limitation in which every State in the Union is equally subject; the question of slavery is one of a legislative character, it therefore already belongs to them to decide it by our own grant. But we ask gentlemen can a grant of political power be revoked at the will of those who grant it? Would it not excite some surprise in this hall to talk of revoking a common charter of incorporation such as that of the Bank of the United States, unless for some cause of forfeiture of that charter? Whatever is our power over the Territories, it is acknowledged that it coincides with the territorial condition, and that when that ceases the power over them, as such, ceases also. It is acknowledged that we could not impose this condition after the State is admitted; and yet it is contended that it may be done just before its admission, by virtue of a territorial power which must necessarily exist at the moment when the admission takes place; in a word, it is argued that, by virtue of a power confessedly temporary, we can impose a condition in its character perpetual if we so will. I cannot show the glaring inconsistency of this position in so palpable a mode as by showing it to be a case of unscripted law. Let us put the case of question and writ. A gentleman has

power to make leases of his ward's land, during his minority, and to expire with it; the moment after his ward reaches majority he has no power over the estate; and yet, sir, upon the principle now contended for, he might enter into a contract the day before the minority ceased which would bind the ward and his heirs forever. If such a proposition as this were stated in the judicial hall, in another part of this Capitol, the gentleman would be told that it could not even be received for discussion.

The gentleman from Pennsylvania [Mr. Hemphill] asked can a man have a vested interest in an unborn human being? And he answered, no. If this be the doctrine, sir, though that gentleman did not apply it, and I believe did not intend to apply it to the old States, I repeat again that it proclaims universal emancipation, after failure of the present generation of slaves. Sir, it is of no importance that the present Congress do not apply it; we are but actors who fret our busy hour upon the stage and then pass away; others will come to act their parts, and these principles may then be put into practical execution in their utmost extent. I will not detain the committee to prove that a property in the parent implies property in the progeny. The maxim, "*Partus sequitur ventrem*," is as old as the civil law; it is founded upon the immutable principle that wherever I have property in the capital stock I have the same property in its products. He who owns the land owns all the fruit which it produces. If, then, you may admit my property in the parent, you cannot deny it in the child. If, indeed, you deny my right to a vested interest in an unborn human being, you may, perhaps, go one step further and deny the same interest in those who now exist. The argument is as strong in one case as the other. Assume but this principle, and then you need not wait for futurity to do this great work of emancipation. No, sir, you may say at once to every bond man in the United States you are free.

I look upon the Union of these States as the ark of our political safety; if that be lost, we may bid farewell, a long farewell, to all our pleasing hopes and fond anticipations of future greatness and glory. They will be as the illusions of a doubtful dream. But, while I deprecate disunion as the most tremendous evil, I cannot shut my eyes against the light of experience; I cannot turn a deaf ear to the warning voice of history; from these we learn that harmony in the spirit which can alone animate and sustain a confederate republic. While this spirit exists, it is displayed in acts of legislation reciprocally beneficent to every member of the confederacy, and these be-

come new ligaments to bind them together in the bonds of brotherhood; this spirit is not all at once extinguished, nor are the bonds of union suddenly burst asunder; but when, instead of this beneficent spirit of legislation which I have described, a different course prevails, this spirit of harmony gives way successively to jealousy, distrust, and, finally, discord; let but this last spring up among us, you may consider the days of the Republic as numbered, and that it is fast hastening to its dissolution.

When that sad catastrophe shall befall us this noble confederacy which, in its undivided state, could stand against a world in arms, will be broken, if not into its constituent parts, into some minor confederacies, the victims of foreign intrigue and of their own border hatred. Where, then, will be your commerce which covers every sea? Where your army and navy, the means of your defence, the instruments of your glory? They will be remembered only to make the contrast with your then situation more painful. What will become, then, of this boundless tract of Western land, the subject of the present contest, which has poured and would continue to pour such rich streams of wealth into your treasury? It may become the theater on which the title to itself may be decided, not by congressional debate, not by construction of treaties or constitutions, but by that force which always begins where constitutions end. I conjure you, then, beware lest by this measure you excite the discontent of one-half of the Union, by legislating injuriously to them upon a subject in which they have so deep a stake of interest and you have none in point of property; take care that you do not awaken the painful reflection that the federal arm is strong only to destroy.

Charles Pinckney, who had taken a prominent part in the Constitutional Convention [see Vol. I, chapters x and xii], spoke with authority upon the intention of that convention in regard to points which had become subjects of contention in the present debate.

He denied that the North had made a concession to the South in including three-fifths of slave population in the basis of representation in the House of Representatives. Instead, the concession was from the South.

In our first national compact, the Confederation, in which the equality of vote was preserved, the first acquiescence was

shown on the subject of not using or even alluding to the word slavery, or making it a part of our political machinery. In this compact the value of the lands and improvements was made the rule for apportioning the public burdens and taxes. But the Northern States, who are always much more alive to their interests than the Southern, found that their acquiescence was inconsistent with their interest; and, as usual, made the latter prevail. They found it was paying too dear for their quies to keep their hand from the slaves any longer. At their instance, and on their motion, as will appear by a reference to the Journals of the Old Congress, the rule was changed, and apportionment was based on population, including the whites and three-fifths of other descriptions. This rule was retained by the Constitutional Convention.

Mr. Pinckney then explained the expectation of the convention in regard to Federal revenue, saying that it was assumed that this would come from direct taxation. Instead, however, Congress early adopted indirect taxation in the form of tariffs and excises, which has resulted in the benefit of the North and the injury of the South. The exports of the States from Maine to Pennsylvania now annually amounted to \$18,000,000; those of the other States to \$32,000,000, enabling an almost double importation of foreign products on which duties were assessed.

And here let me ask from whence do these exports arise? By whose hands are they made? I answer, entirely by the slaves; and yet these valuable inhabitants, without whom your very Government could not go on, and the labor of two or three of whom in the Northern States is more valuable to it than the labor of five of their inhabitants in the Eastern States, the States owning and possessing them are denied a representation here but for three-fifths, while the whole of the comparatively unproductive inhabitants of the Northern and Eastern States are fully represented here. Is it just—is this equal? And yet they have the modesty to complain of the representation as unjust and unequal; and that they have not the return made them they expected, by taxing the slaves, and making them bear a proportion of the public burdens. Some writers on political economy are of opinion that the representation of a State ought always to be equitably founded on population and taxation. It is my duty to believe that these are the true criterion; for my

own State (South Carolina) having, in her House of Representatives, 124 members, 62 of them are apportioned by the white population and 62 on taxation; thus representing the contributions of our citizens in every way, whether arising from services or taxes.

Mr. Pinckney then discussed the "migration" clause in the Constitution.

The reasons for restraining the power to prevent migration hitherto for twenty years were, to the best of my recollection, these: That, as at this time, we had immense and almost immeasurable territory, peopled by not more than two millions and a half of inhabitants, it was of very great consequence to encourage the emigration of able, skilful, and industrious Europeans.

It was maintained that the safest mode would be to pursue the course for twenty years, and not, before that period, put it all into the power of Congress to shut it; that, by that time, the Union would be so settled and our population would be so much increased we could proceed on our own stock, without further accession of foreigners; that, as Congress were to be prohibited from stopping the importation of slaves to settle the Southern States, as no obstacle was to be thrown in the way of their increase and settlement for that period, let it be so with the Northern and Eastern, to which, particularly New York and Philadelphia, it was expected most of the emigrants would go from Europe; and it so happened, for, previous to the year 1808, more than double as many Europeans emigrated to those States as Africans were imported into the Southern States.

Having thus, I trust, proved clearly that you have no right to adopt this inhibition of slavery, but are forbidden to do so by the Constitution, as well as by the treaty, I ought perhaps to stop here; but there are some other points which I ought not to pass unnoticed. One of these is the ordinance of July, 1787, passed by the Old Congress, at the period of the sitting of the convention in Philadelphia, for forming the Constitution, by which that body (the Old Congress) undertook to form a code for the future settlement, government, and admission into the Union of all the territory northwest of the River Ohio ceded by Virginia to the United States in 1785. On this subject I beg leave to remark that, by the Confederation of the United States, the Old Congress had no power whatever but that of admitting new States, provided nine States assented. This ordinance,

therefore, in prescribing the forms of government, as they respected legislative, executive, and judiciary powers, in establishing bills of rights, and the times and terms of their admission into the Union, and inhibiting servitude therein, is chargeable with ingratitude and usurpation. It is chargeable with ingratitude when we reflect that the cession of the great tract of country—this rising empire of freemen—was gratuitously, and with noble disinterestedness and patriotism, made by Virginia, that the passing of an ordinance which contained a provision which could not but go to prevent the admission of Virginians there, as they could not move there with their slaves, was a most ungracious and ungrateful return to that State for her liberality, and could not but meet with the disapprobation of this nation.

Let us, sir, recollect the circumstances the Old Congress were in at the time they passed this ordinance: they had dwindled almost to nothing; the convention had been then three months in session; it was universally known a constitution was in its essentials agreed to; and the public were daily expecting (what soon happened) the promulgation of a new form of government for the Union. I ask, sir, was it under these circumstances proper for a feeble, dwindled body, that had wholly lost the confidence of the nation, and which was then waiting its supersession by the people—a feeble, inefficient body, in which only seven or eight States were represented, the whole of which consisted of but seventeen or eighteen men—a number smaller than your large committees; a body literally in the very agonies of political death—was it, sir, even decent in them (not to say lawful or constitutional) to have passed an ordinance of such importance?

Mr. Darlington replied to the argument of Mr. Reid that slavery, admittedly a poison, should be diluted by dispersion throughout the territories.

Rather would he call slavery a contagious disease in the body politic. Like smallpox, it ought to be confined in the smallest possible limits. The Congress of 1787 introduced a sort of political vaccination into the constitutions of Ohio, Indiana, and Illinois, which effectually secured those States from the evil; and I am also for extending the same salutary process to our infant sister, Missouri. And why? Is it to injure her? Is it to mutilate or disfigure her? No, sir, it is to secure her health and to preserve her beauty!

break down, and which will ever prevent us from carrying into operation, *in extenso*, this great principle. Take this principle and preach it up to the monarchs of the world; will they descend from their lofty eminences or raise mankind to a level with themselves? No, sir, the principle, although lovely and beautiful, cannot obliterate those distinctions in society which society itself engenders and gives birth to. Liberty and equality are captivating sounds; but they often captivate to destroy. England had her Jack Cades and levelers. Look, I pray you, to revolutionary France. These were the principles of that day. Mark the consequences! Murder and rapine stalked over the land, and the guillotine, the work, too, of a philanthropist of that day, was the sad monument of this fallacy. Liberty and equality were proclaimed by Robespierre and his associates at the very moment when these men were enriching the fields of France with the blood of her citizens. Nor was the doctrine confined to political institutions, but, advancing with a daring step, it fought even with the Creator and mocked at the immutable truth of religion.

Turn your eyes also to South America. The throne of the Incas was washed from under them by the tide which flowed in from Spain. The native of the forest was deprived of his freedom and made to toil for his new master. Then, too, sprung up a philanthropist, who claimed for the Indian an equal rank in creation with the inhabitants of Spain. His claim was admitted, and Africa mourned over the mistake, and her deepest curses may still be uttered against the memory of *Las Casas*.

But, Mr. Chairman, although I do not believe that this principle of equality can be applied to man *in extenso*, yet I love it, and admire it as an abstract truth, and will carry it into operation whensoever I can; and, sir, I call on gentlemen to lend me their aid in the present instance. If we cannot raise the black man up to the level of the white—and that we have not the constitutional power to do so none here have denied—let us raise, at least, the white man up to this level. Extend an equality of rights to the people of Missouri. Place them upon a footing with the people of New York, Connecticut, and of the other States. They have the right to alter, to amend, to abolish their constitutions. You say to the people of New York, alter your constitution as you see fit in all its parts. Will you say in the same breath to the people of Missouri, you shall not exercise this right in regard to your constitution? Is this your boasted equality? If it be, sir, "I will have none of it." It is base coin, and will not pass current.

Replying to the argument that all citizens of the United States had common rights in the Territories, and therefore that Congress could not prevent slaveholders going there with their property, he said that it was admitted that Missouri could exclude slavery. What then became of the common right?

My inference, therefore, is that the right to carry slaves into a new State or Territory is not a Federal right, but a local one.

Mr. Tyler delivered a speech of great argumentative force and rhetorical beauty.

"Tell me not of huplied and doubtful powers; against them I weigh the very nature of our Government and the spirit of our institutions. They are founded on the great principle that man is capable of self-government; that he requires no foreign aid in regulating his domestic concerns. Our Revolution was founded on this principle; England denied to us the right to legislate, except by her special authority; nay, she proclaimed the very principle which you now proclaim as applicable to Missouri—the right to bind you by her own system of legislation. To this the American spirit did not bow. It went forth to the battle, in the majesty of its strength, and achieved the victory of our independence. But, sir, the principle which we are called on to adopt goes, by a slightest distance, further than England ever dared to go. Her acts of legislation were fleeting and ephemeral; liable at all times to repeal; but we are to legislate, not only for the present day but for all ages to come. This restriction, if adopted, is unalterable and interminable in its duration. No succeeding generation have any power over it. It constitutes the very essence of the political existence of Missouri. It is the condition precedent, and must, through all future time, attach to the estate.

Gentlemen have exultingly read to us the Declaration of Independence. From it they have gathered that which, as an abstract truth, I am not disposed to deny: "that all men are, by nature, equally free, sovereign, and independent." Can this proposition admit of application to a state of society? Does not its fallacy meet you in every walk of life? Distinctions will exist. Virtue and vice, wealth and poverty, industry and idleness constitute so many barriers, which human power cannot

This is said, too, to be a parental care for Missouri. I am pleased with plain and simple illustrations: would a father act in the way in which you propose to act? The child has attained the age of twenty-one; by the laws of society that child is entitled to an equality of rights with himself; and what would you think of the parent who should say to the child, "Sir, you are now a man, but you shall not exercise the rights of a man, except upon conditions"? Would the child submit? Would a kind parent hold such language?

Missouri is now full grown; this, your offspring, has attained full age; attempt no longer to trammel her; let her set up for herself, and, although you may advise her, do not attempt to force her. Sir, she will not and ought not to submit to force; she would disgrace her parent stock if she did so. The grand Roman spirit which inhabits every portion of this country spurns control. Would you humiliate this spirit if you could? If you would, you cannot do it; but, if you could, your country would have no cause to thank you for so doing.

What will be the consequences if you persist in this course? A sectional feeling is already generated; a geographic line is drawn. Tell me not of that policy which shall divide the people of this country by local feelings and prejudices. This is the bane of a republic—it is the rock which ought to be most cautiously avoided; sir, it is the greatest of all dangers to the union of these States. Take not my poor word for it; Nay, disregard the admonitions of him who has so often been called the Father of his Country. Forget the vocabulary address of Washington. But can you, or will you, close your eyes to the lights of experience? United thrones stand up successfully against the mighty power of Xerxes; and the fall of Leonidas was but the precursor of the glory achieved at Marathon and Plataea. But Sparta wished to dominate over Athens, and their intestine feuds opened the channel to that flood of vandalism which deluged Greece and obliterated all traces of freedom. Such, too, was the fate of the Asiatic League. I beseech gentlemen then to pause, lest they produce a similar division of sentiment in this happy land.

Let us avoid a question like this present. Gentlemen on the opposite side may yield without dishonor. They pursue but a scheme of policy; we are differently situated; we cannot, with our violation of our oaths, support this measure. We believe in our consciences that the Constitution confers on us no such power. For myself, I cannot and will not yield one inch of ground. Let me, then, adjure our brethren from the North to

come and sit down once more by our side. I call on them to heal the differences which this measure has produced. Your course is palpable and plain. You have two roads before you; take this, and all is harmony and peace; over that hang doubts and fears. I invoke the Genius of the Constitution to cover and protect us against the evils which threaten us. What if you impose the restriction, and Missouri, instead of submitting, shall form herself into a community and demand admittance, or sever from the Union? Will you then retract? How much more honorable to do it now! Or do you mean to persist in your object at all hazards, and, if she prove refractory, reduce her to submission? Do you believe that Southern bayonets will ever be plunged in Southern hearts?

When the compromise measure was presented to the House by the conference committee Mr. Stevens spoke as follows:

I have listened with pain to the very long, protracted debate that has been had on this unfortunate question. I call it unfortunate, sir, because it has drawn forth the worst passions of man in the course of the discussion.

If the deadliest enemy this country has, or ever had, could dictate language the most likely to destroy your glory, prosperity, and happiness, would it not be precisely what has been so profusely used in this debate—sectional vaunting? Indeed, sir, there is no view of this unhappy division of our country but must be sickening to the patriot and in direct violation of the dictates of wisdom, and the last, though not least, important advice of the Father and Friend of his Country. He forbids the use of the words Northern and Southern, Atlantic and Western, as descriptive of the various parts of your country.

But, sir, we have now arrived at a point at which every gentleman agrees something must be done. A precipice lies before us at which perdition is inevitable. Gentlemen on both sides of this question, and in both Houses, indoors and out of doors, have evinced a determination that augurs ill of the high destinies of this country! And who does not tremble for the consequences?

I wish not to be misunderstood, sir. I don't pretend to say that in just five calendar months your Union will be at an end; your Constitution destroyed; your proud trophies, won in the most valiant combat, profaned; glories of half a century, gained by yourselves and your departed friends, and unequaled

in the history of any country or people on the face of the earth, made the sport of an envying world; and all this in a sacrilegious contest, at the end of which no wise man would give a "pea-straw for his choice on which side to be found, as the victors would have lost all and the vanquished have nothing left to excite envy.

But, sir, I do say, and, for the verity of the remark, cite the lamentable history of our own time, that the result of a failure to compromise at this time, in the way now proposed, or in some other way satisfactory to both, would be to create ruthless hatred, irradicable jealousy, and a total forgetfulness of the ardor of patriotism, to which, as it has heretofore existed, we owe, under Providence, more solid national glory and social happiness than ever before were possessed by any people, nation, kindred, or tongue under Heaven.

In accordance with the act of Congress Missouri adopted a constitution and presented it to Congress for ratification. This contained a clause by which the State legislature was obliged to pass laws against the entry of free colored persons into the State. The Northern Senators and Representatives objected to this clause as an infringement upon the national Constitution, which declares (Art. IV, sec. 2) that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

After a spirited debate of several weeks in both chambers of the national legislature, at the end of which the Missouri constitution remained unratified, Henry Clay, the Speaker of the House, proposed a conference of committees from the Senate and House which brought forward a compromise measure, allowing the admission of the State provided that the legislature should pass an act declaring that it would never exclude any citizen of another State from the privileges and immunities to which he is entitled under the Constitution of the United States. The measure was adopted by Congress on February 28, 1821, and approved by the President on March 2. The legislature complied with this condition demanded of it and the State was admitted, thus putting an end to the portentous struggle of two years and one-half duration.

IV—7

THE RIGHT OF PETITION

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Representatives to Withdraw for Conference—Rhett Proposes Secession; It is Negatived by the Conference, and a Proposal of a 'Gag Law' by John M. Patton [Va.] Is Endorsed; It is Adopted by the House.

CHAPTER III

THE RIGHT OF PETITION

[DEBATES ON THE RECEPTION OF PETITIONS FOR ABOLITION OF SLAVERY IN THE DISTRICT OF COLUMBIA]

The Colonization Society—It Requests Aid of the Government—Debate in the Senate on the Request: in Favor, Ezekiel Chambers [Md.]; Opposed, Robert Y. Hayne [S. C.]; Memorial Laid on the Table—The American Anti-Slavery Society Is Formed—Agitation Is Directed Against Slavery in the District of Columbia—Petition Against It Is Introduced and Supported by Representative Charles Miner [Pa.]—Plan of Southern Congressmen to "Gag" Such Petitions—Debate on a Resolution in the House of Representatives to Lay on the Table All Anti-Slavery Petitions: in Favor, Leonard Jarvis [Me.], Henry L. Pinckney [S. C.], Franklin Pierce [N. H.], Waddy Thompson [S. C.]; Opposed, John Quincy Adams [Mass.], Francis Granger [N. Y.]; Motion Is Carried, Henry A. Wise [Va.] Refusing to Vote on Constitutional Grounds—Caleb Cushing [Mass.] and Mr. Adams Present Anti-Slavery Petitions Which Are Laid on the Table—Mr. Adams Questions the Chair About the Admissibility of a Petition He Holds from Slaves—Dixon H. Lewis [Ala.], Seconded by Seaton Grantland [Ga.] Moves to Censure Mr. Adams for Violating the Dignity of the House—Various Modifications of the Motion by John M. Patton [Va.], Mr. Thompson, and George C. Dromgoole [Va.]—Motion Is Negatived After Debate, in Which These Movers, and Julius C. Alford [Ga.], Francis W. Pickens [S. C.], Mr. Pinckney and Richard French [Ky.] Defend Resolution, and Mr. Adams, Churchill C. Cambreleng [N. Y.], and Mr. Cushing Oppose It—President Jackson Recommends Legislation to Prevent Circulation in the Mails of Abolition Publications—Senator Thomas H. Benton [Mo.] Submits a Specimen of an "Incendiary" Cartoon—Bill Introduced in Senate by Special Committee to Penalize Postmasters Accepting Such Mail—Minority Report of John C. Calhoun [S. C.] on the Subject: "Abolition and Disunion"—John P. King [Ga.], of the Majority, Opposes the Report—Reply by Calhoun: "Slavery Paramount to Federal Laws"—Reply to Calhoun by Daniel Webster [Mass.]: "Freedom of the Mails"—Bill Is Lost—President Martin Van Buren's Position on Abolition—William Slade [Vt.] Makes an Abolition Speech in the House—Hopkins Halsey [Ga.] and R. Barnwell Rhett [S. C.] Call on Southern Repre-

THE question of the abolition of slavery in places where it already prevailed by law in distinction to the restriction of the institution to its existing legal limits began to be systematically agitated soon after the Missouri Compromise.

The leader in this movement was Benjamin Lundy, editor of *The Genius of Universal Emancipation*. In 1829 he was joined by William Lloyd Garrison, who afterwards (January 1, 1831) established *The Liberator*.

Lundy and other men who became prominent in the abolition movement, such as James G. Birney and Gerrit Smith, had originally been members of the Colonization Society, and to understand the progress of the anti-slavery movement it will be well at this point to discuss briefly the origin and character of the less radical organization.

As early as 1801 President Jefferson and James Madison, then Governor of Virginia, had considerable correspondence on the subject of colonizing free negroes out of the country as a step forward in solving the slavery question. A number of philanthropists early in the century also began to agitate the project, and in 1816 a Colonization Society was organized in Princeton, N. J. A few years afterwards it was reorganized at Washington, D. C., as the "National Colonization Society." Bushrod Washington, a nephew of George Washington, and an Associate-Justice of the Supreme Court, was made its president, and *The African Repository* was established as its organ.

The society grew rapidly, and by 1827 it had branches in almost every State, and was supported by distinguished people of every political complexion, including James Madison and Henry Clay, as well as Benjamin Lundy and other abolitionists.

In 1821 a region on the east coast of Africa at Cape Mesurado was purchased and named Liberia, its chief town being called Monrovia for President Monroe. On

February 7, 1827, the society, through Senator Ezekiel Chambers [Md.], presented a memorial to the Senate asking Government aid to send free negroes to Liberia. The memorial was opposed by Senator Robert Y. Hayne [S. C.]. It was laid on the table.

GOVERNMENT AID TO COLONIZE NEGROES

SENATE, FEBRUARY 7-9, 1827

SENATOR CHAMBERS.—I know no question not immediately involving the very existence of the Government which ought to excite so deeply the anxious reflection of every patriot. That part of the population of the States which it is the object of the society to remove is a degraded, miserable race of beings. They are not, cannot be, citizens of your country—they do not add to your physical energies—they do not effect the legitimate object of any one appropriate class of a well-organized community—they are anything but a laboring class. It were well did they only present a negative character, but your free blacks exert the most deleterious influence. The corrupting poison of their example and their habits has infected our slaves and made them indolent and immoral.

You are advised by intelligent and discreet men whose lives have been devoted to the consideration of this subject that the plan now proposed will probably remove, certainly lessen, these evils. You are advised that the means of accomplishing the plan are in the power and under the legal control of Congress. If authority be required to sanction such opinions, you have it in the deliberate and formal decisions of the legislatures of a large proportion of the States of this Union—States in which slavery is allowed, and States in which it is not allowed. The States of Virginia, Maryland, Kentucky, and Tennessee have each made a legislative declaration of their views upon this subject. Georgia has so far expressed an opinion, in that she has directed the captive Africans, who, by former laws of Congress, were placed at the disposal of the State, to be delivered to this Colonization Society to be sent to Africa.

SENATOR HAYNE.—The gentleman from Maryland has vindicated the object of the society. He insists that it is not the wish or intention of the society to interfere with or in any way disturb the policy of the Southern States. So say the society. But, sir, facts speak stronger than professions. And what are the facts? Are not the members and agents of this society

everywhere (even while disclaiming all such intentions) making proclamations that the end of their scheme is universal emancipation? Have we not heard their orators, at their meetings here, openly held under the eyes of Congress, asking whether, when all the free people of color are transported, we are to stop there; and answering their question by the avowal that the great work will be but then begun? Sir, let any man examine the whole scope and tendency of the reports and speeches made to this society, nay, of this very manifesto, published by their authority, and he must be dull of apprehension if he does not perceive that the spirit which lurks beneath their fair professions is hostile to the peace and best interests of the Southern States; and not the less so because it comes clothed in the garb of friendship and with professions of peace and good will. Besides, sir, does not every Southern man know that, wherever the Colonization Society has invaded our country, a spirit of hostility to our institutions has instantly sprung up?

Passing over the indirect evils of this society, what would be the direct tendency and effect of the adoption of its policy by the Federal Government? The national funds are to be appropriated for the purpose of transporting such slaves as their owners may consent to emancipate for that purpose. If this be taken up as a national object; if we have the power and the inclination, and should resolve to appropriate the public money to this object, of course we would be at liberty to offer any temptation we please to induce the owners of slaves to consent. It is useless to disguise the truth—if this policy should ever be adopted by this Government, the members of the society will go directly into the market as the purchasers of our slaves, for the purpose of emancipation and transportation. Now, I will ask gentlemen to contemplate dispassionately the effect that is to be produced on the Southern States, by this Government being notoriously in the market, with its treasury of \$20,000,000 or \$30,000,000, as the purchasers of our slaves for the purpose of emancipation. Can you touch this mass of a now contented, happy, and useful class of beings without disquieting their minds, creating dissatisfaction, destroying their usefulness, and bringing ruin on the whole community? Much has been already done to destroy the confidence and impair the mutual affection which have hitherto so happily subsisted between the master and his slave; but adopt this policy and they will be destroyed forever. Besides, sir, once bring this Government into the market as purchasers and they will fix their own terms. Once admit the principle, and, in its application, it

must inevitably lead to divesting us of our property on such terms as Congress may choose to prescribe; the insidious movements of colonization and abolition societies, the distribution of political tracts, and a few incendiary resolutions introduced into Congress and the State legislatures (events which have, in part, occurred even in our own time) will reduce the value of our property to any standard this Government chooses to prescribe. So it has been in the West Indies, and so it will be here. I am informed by a gentleman who has lived many years in the West Indies that, by the perpetual agitation of this question in Great Britain, in and out of Parliament, lands in that country have been reduced to less than half their value; and slaves to ten pounds per head; and should the British Government choose to purchase them it will be the easiest thing in nature so to shake the public confidence in that species of property as to reduce their value to nothing.

In this view of the subject, can any man be so blind as not to see and feel the dangerous tendency of the measures recommended to us by this society? Sir, the truth cannot be disguised—it must be told. The only safety of the Southern States is to be found in the want of power on the part of the Federal Government to touch the subject at all. Thank God, the Constitution gives them no power to engage in the work of colonization, or to interfere with our institutions, either for good or for evil. This is the very "Ark of the Covenant," in which alone we will find safety.

In December, 1833, the American Anti-Slavery Society was formed in Philadelphia, with Beriah Green as president and Lewis Tappan and John G. Whittier as secretaries.

SLAVERY IN THE DISTRICT OF COLUMBIA

The first attempts to secure the abolition of slavery were directed upon the District of Columbia as the point of easiest attack, since Congress had sole power over the "Federal District," limited only by conditions of the grants of the territory from Maryland and Virginia, and by the general restrictions of its powers in the Constitution.

During the session of 1828-29 a petition was presented to Congress signed by over 1,000 citizens of the

District praying for a gradual emancipation of slavery therein, owing to the great abuses which had arisen in regard to the treatment of the slaves; it was referred to a committee which failed to report it.

Early in the next session (on January 6, 1829) the subject was again brought before the House by Charles Miner [Pa.]. He offered a preamble and resolution; the preamble stated at length such abuses in the District growing out of slavery as the kidnapping of free negroes, use of public prisons for the domestic slave trade, etc., and the resolution declared that a committee be appointed to investigate these abuses and to inquire into "the expediency of providing by law for the gradual abolition of slavery within the District in such manner that the interests of no individual shall be injured thereby."

On January 9 the preamble was separated from the resolutions and the whole was voted upon in sections, the preamble being negatived by a vote of 141 to 37, the first resolution adopted by 120 to 29, and the second resolution adopted by 114 to 66. Nothing, however, came of the inquiry thereby ordered.

On January 13, 1836, Leonard Jarvis [Mo.] moved in the House that "the subject of the abolition of slavery in the District of Columbia ought not to be entertained by Congress," and that petitions to this effect "ought to be laid upon the table without being referred or printed." On February 8 Henry L. Pinckney [S. C.] moved that a special committee be appointed to consider the petitions, Mr. Jarvis's resolution and all others dealing with the subject, "with instructions to report that Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the States," and ought not to interfere in case of the District of Columbia. This was passed by an overwhelming vote, Henry A. Wise [Va.] refusing to vote, saying:

I refuse to vote at all upon such a proposition; because to affirm any proposition by declaratory resolution is to admit it needs affirmation; and because Congress has no constitutional

power either to affirm or deny any proposition whatever in relation to slavery in the States.

On May 18, 1836, Mr. Pinckney presented the report of the committee. It was a very exhaustive one, occupying an hour and a half in reading. It concluded with the resolutions it had been instructed to present, together with the Jarvis resolution, expanded so as to prohibit all consideration of resolutions, as well as petitions, on the subject of slavery. After considerable debate the resolutions were adopted: the first, declaring Congress had no constitutional authority to interfere with slavery in the States, by 182 votes to 9; the second, that it ought not so to interfere in the District of Columbia, by 132 votes to 45; and the third, that consideration be refused petitions and resolutions on the subject of slavery, by 117 votes to 68. When the name of John Quincy Adams was called on the third resolution the ex-President rose and, refusing to vote, said: "I hold the resolution to be a direct violation of the Constitution of the United States, the rules of this House, and the rights of my constituents." Mr. Adams resumed his seat amid loud cries of "order" from all parts of the hall.

In the debate on the motion the speakers in behalf of the right of petition were ex-President Adams and Francis Granger [N. Y.], and those in opposition in greater or less degree were Franklin Pierce [N. H.], Waddy Thompson, Jr. [S. C.], and Henry L. Pinckney [S. C.].

THE GAG LAW

HOUSE OF REPRESENTATIVES, DECEMBER 16, 1835-FEBRUARY 12, 1836

MR. PIERCE.—This was not the last memorial of the same character which would be sent here. It was perfectly apparent that the question must be met now, or at some future time, fully and explicitly, and such an expression of this House given as could leave no possible room to doubt as to the opinions and sentiments entertained by its members. He, indeed, considered the overwhelming vote of the House the other day, laying a

memorial of similar tenor, and, he believed, the same in terms, upon the table, as fixing upon it the stamp of reprobation. He supposed that all sections of the country would be satisfied with that expression; but gentlemen seemed now to consider the vote as equivocal and evasive. He was unwilling that any imputation should rest upon the North, in consequence of the misguided and fanatical zeal of a few—comparatively very few—who, however honest might have been their purposes, he believed had done incalculable mischief, and whose movements he knew received no more sanction among the great mass of the people of the North than they did at the South. For one, he, while he would be the last to infringe upon any of the sacred reserved rights of the people, was prepared to stamp with disapprobation, in the most express and unequivocal terms, the whole movement upon this subject.

MR. ADAMS.—I am perfectly satisfied that the true and only method of keeping this subject out of discussion is to refer all petitions of this kind to the Committee on the District of Columbia, or some other committee of the House, to receive their report, and to accept it unanimously. This does equal justice to all parties in the country; it avoids the discussion of this agitating question on the one hand and, on the other, it pays a due respect to the right of the constituent to petition.

From the moment that these petitions are referred to the Committee on the District of Columbia, they go to the family vault "of all the Capulets," and you will never hear of them afterward.

But if you are to lay these petitions on the table, if you come to the resolution that this House will not receive any more petitions, what will be the consequence? In a large portion of this country every individual member who votes with you will be left at home at the next election, and some one will be sent who is not prepared to lay these petitions on the table.

What will be the next consequence? Sir, you will have discussion; and, to my regret I say it, discussion has been called for and challenged upon this floor. It has been challenged. And what will the discussion amount to? A discussion upon the merits of slavery. Sir, on such a discussion every speech made by a representative from the north of Mason and Dixon's line, in this House, will be an incendiary pamphlet, and what will you do with them? The speeches of my colleagues, probably of myself, will be incendiary; because, if discussion is thrust upon us, I doubt not I might make a speech as incendiary as any pamphlet upon which such torrents of

denunciation have here been poured. If I were capable of the craven and recreant spirit of shrinking from expressing, not probably so much my own sentiments as those of my constituents, I should go home to their scorn, and they would send here a man who would represent them more faithfully.

Well, sir, what becomes of these incendiary pamphlets, the speeches in this House, if they go to the public? What will be done with them by the public press? The newspapers report these speeches; every speech is circulated through your whole country; and how can you arrest it? Will you introduce a resolution that members of this House shall not speak a word in derogation of the sublime merits of slavery? You must have a resolution of this kind, to follow the one laid upon your table this morning—a resolution that no member of this House shall dare to utter an incendiary sentiment? And what is that incendiary sentiment? Why, it is, in substance, the contents of these pamphlets. Well, sir, you begin with suppressing the right of petition; you must next suppress the right of speech in this House; for you must offer a resolution that every member who dares to express a sentiment of this kind shall be expelled, or that the speeches shall not go forth to the public—shall not be circulated. What will be the consequence then? You suppress the right of petition; you suppress the freedom of speech; the freedom of the press and the freedom of religion; for, in the minds of many worthy, honest, and honorable men—fanatics, if you please so to call them—this is a religious question, in which they act under what they believe to be a sense of duty to their God; and, however erroneous may be their conclusions, it is not for me, nor for this House, to judge them. Therefore, sir, in deference to what has been heretofore the usage of this House, in deference to the respect which is due to the right of petition, and the respect which is due to the right of freedom of speech, freedom of the press, and freedom of religion, I hope that this petition will be left where it has been placed by the House, in the possession of the Committee on the District of Columbia, and that we shall hear no more about it.

MR. THOMPSON.—As to discussing this subject before any human tribunal, I will not. I will not condescend to vindicate to this House or elsewhere this or any other of our domestic institutions. It is no affair of yours; you have no right to touch it, still less to demand a reason of us for its continuance. The gentleman from New Hampshire, Mr. Pierce—and I must say that his voice sounded in my ear as the voice of a friend—

said that we of the South could not know the state of things at the North; that in his district there was not one abolitionist in five hundred. If I did not know it before, I do now, sir, because he has said so. Let me say, in my turn, that he does not know the state of feeling at the South; and I do, with a full knowledge of all my responsibilities, declare that, in my opinion, nothing will satisfy the excited, the almost frenzied, South but an indignant rejection of these petitions; such a rejection as will, at the same time that it respects the right of petitioning, express the predetermination, the foregone conclusion, of the House on the subject—a rejection, sir, that will satisfy the South and serve as an indignant rebuke to the fanatics of the North. But we are told that such a course, while it would satisfy the South, would offend the people of the North. How so, sir? I had thought that it was the South that was interfered with, the South that was injured, that it was the South that was to be satisfied. Who is it at the North that we are to conciliate? The fanatics? Fanatics, did I say, sir? Never before was so vile a band dignified with that name. They are murderers, foul murderers, accessories before the fact, and they know it, of murder, robbery, rape, infanticide. Sir, this question must be settled; if I may so speak, it must be killed; a just regard to the rights and feelings of the South, to the peace and harmony of this great Republic, the permanency of our institutions, demand it; in short, sir, every consideration which can address itself to a patriot demands it. Yes, sir, in the presence of the armed monarchies of Europe, with all the powerful elements both on this and the other side of the Atlantic, already in incipient commotion, already rumbling in their deep crater, he is wilfully blind who does not see that the time is not distant when union, concert, all the patriotism, all the virtue, all the wisdom of our whole country will be demanded. Shall we, sir, continue to stir this most prolific source of discord, aye, of hatred, or shall we settle it, and forever?

MR. GRANGER.—Sir, who are these petitioners? They are persons who, looking to the letter of the Constitution of their country, and finding there that Congress has the right of exclusive legislation for this district, and not looking beyond that, to the grants of session by the States of Virginia and Maryland, to see under what reservations those grants were made and accepted, and without stopping to ask the still more important question whether the residents of the District of Columbia require any interference, suppose that Congress have the right to legislate upon this subject. Starting upon this abstract propo-

sition, they have supposed they had a right to appear at the bar of this House, and to ask that the seat of Government of a free nation should be inhabited by those only who are free.

Such, sir, is the condition of these petitioners; and I can never consent that they should be designated as murderers, or that their names should be mingled with those of the abolitionists.

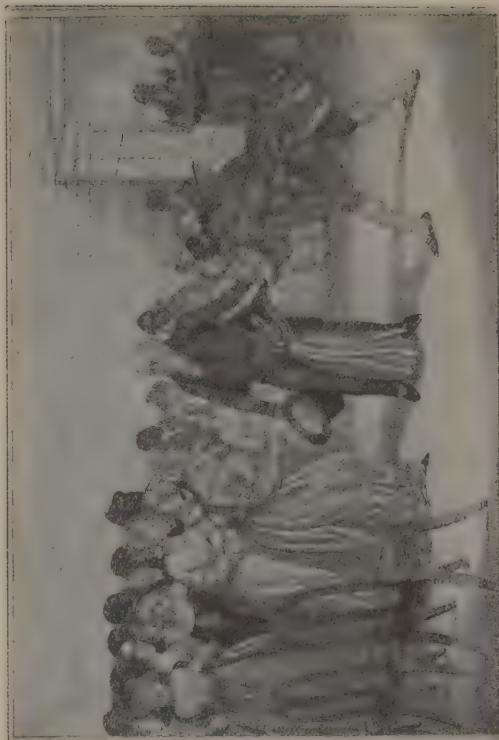
Mr. PINCKNEY considered the question settled. The Government had made a solemn covenant upon this subject with the slaveholding States; Congress might violate the Constitution; it could not, would not, violate the public faith. It was bound hand and foot. The South had nothing now to fear, except from those who are determined to continue the agitation of slavery for the purpose of excitement. Abolitionism has attained its height. It has begun to go down, and will soon disappear entirely, if we do not fan the flame ourselves and will only allow our friends in the non-slaveholding States to fight the fanatics in their own way, and not trammel them in their operations by mixing up extraneous and unnecessary questions with the subject of abolition.

CENSURE OF JOHN QUINCY ADAMS

HOUSE OF REPRESENTATIVES, FEBRUARY 6-9, 1837

During the next session of Congress, on February 6, 1837, Caleb Cushing [Mass.] presented in the House various petitions from "ladies" of his State praying for the abolition of slavery in the District of Columbia. These were received and laid on the table, without debate or commitment, under the resolution of the House. John Quincy Adams [Mass.] then rose and said that he presented a petition from nine "ladies" or women (which term he used became afterwards a subject of dispute) of Fredericksburg, Va. He would not name them, he said:

"Because, from the disposition which at present prevailed in the country, he did not know what might happen to them if he did name them. It was not a petition for the abolition of slavery in the District of Columbia, but it was a petition praying Congress to put a stop to the slave trade in the District of



JOHN Q. [ADAMS] INTRODUCING HAYTIAN AMBASSADE TO LADIES OF NEW ENGLAND

Columbia. Whether it was genuine or not, it was not for him to determine."

The petition was ordered to lie on the table, under the resolution.

Mr. ADAMS said he held in his hand a paper on which, before it was presented, he desired to have the decision of the Speaker, James K. Polk [of Tennessee]. It was a petition from twenty-two persons, declaring themselves to be slaves. He wished to know whether the Speaker considered such a petition as coming within the order of the House.

The Speaker said he could not tell until he had the contents of the petition in his possession.

Mr. ADAMS said that if the paper was sent to the clerk's table it would be in possession of the House, and if sent to the Speaker he would see what were its contents. He [Mr. A.] wished to do nothing except in submission to the rules of the House.

The Speaker said that it was the first time in the recollection of the Chair that persons not free had presented a petition to this House. The Chair wished to take the sense of the House, which he had a right to do.

DIXON H. LEWIS [Ala.] believed that the House should punish severely such an infraction of its decorum and its rules; and he called on the members from the slaveholding States to come forward now and demand from the House the punishment of the gentleman from Massachusetts.

SEATON GRANTLAND [Ga.] would second the motion, and go all lengths in support of it.

Mr. LEWIS said that, if the House would inflict no punishment for such flagrant violations of its dignity as this, it would be better for the representatives from the slaveholding States to go home at once.

JULIUS C. ALFORD [Ga.] said that, if the gentleman from Massachusetts should present this petition, that moment he [Mr. Alford] should move, as an act of justice to the South, which he in part represented, and which he conceived had been treated with indignity, that it be taken from the House and burned; and he hoped that every man who was a friend to the Constitution would support him. There must be an end to this constant attempt to raise excitement, or the Union could not exist much longer. The moment any man should disgrace the Government under which he lived by presenting a petition from slaves praying for emancipation, he hoped that petition would, by order of the House, be committed to the flames.

JOHN M. PATTON [Va.] moved to suspend the rule to enable him to submit a motion to take from the table, to be hereafter disposed of as the House may decide, the paper already presented by the gentleman from Massachusetts, and which had been laid on the table under the resolution of the House; he alluded to the paper presented as a petition from nine ladies of Fredericksburg. He [Mr. P.] would state in his place, and on his responsibility, that the name of no lady was attached to that paper. He did not believe there was a single one of them of decent respectability. He believed the signatures to be genuine, and he recognized only one name which he had known before, and that was the name of a free mulatto woman of the worst fame and reputation. He therefore moved that the paper which had been received and laid on the table should be taken from the table and returned to the gentleman from Massachusetts.

Waddy Thompson [S. C.], moved as an amendment to the motion of the honorable gentleman from Virginia [Mr. Patton] the following resolution:

Resolved, That the honorable John Quincy Adams, by the attempt just made by him to introduce a petition purporting on its face to be from slaves, has been guilty of a gross disrespect to this House, and that he be instantly brought to the bar to receive the severe censure of the Speaker.

He said: The gentleman from Massachusetts offered to present a petition from slaves, and so purporting to be on its face, in open and wilful violation of what he knew to be the rules of this House, and insulting to a large portion of its members. Does the gentleman, even in the latitude which he gives to the right of petition, think that it includes slaves? If he does not, he has wilfully violated the rules of the House and the feelings of its members. Does that gentleman know that there are laws in all the slave States, and here, for the punishment of those who excite insurrection? I can tell him that there are such things as grand juries; and if, sir, the juries of this District have, as I doubt not they have, proper intelligence and spirit, he may yet be made amenable to another tribunal, and we may yet see an incendiary brought to condign punishment.

Mr. LEWIS offered the following amendment, which he suggested to his friend from South Carolina [Mr. Thompson] to accept as a modification:

Resolved, That John Quincy Adams, a member from the State of Massachusetts, by his attempt to introduce into this House a petition from slaves,

for the abolition of slavery in the District of Columbia, committed an outrage on the rights and feelings of a large portion of the people of this Union; a flagrant contempt on the dignity of this House; and, by extending to slaves a privilege only belonging to freemen, directly invites the slave population to insurrection; and that the said member be forthwith called to the bar of the House, and be censured by the Speaker.

Mr. THOMPSON accepted the modification.

Mr. ADAMS then rose and said: Gentlemen are really consuming the time of the House in such a manner that I think the obligation rests upon me to ask them to modify their resolution. It may be as severe as they propose; but I ask them to change the matter of fact a little, so that when I come to the bar I may not, in one single word, put an end to their resolution.

I did not present the petition. I said I had a paper purporting to be a petition from slaves. I asked the Speaker whether he considered such a paper as included within the general order of the House, that all petitions, memorials, resolutions, and papers, relating in any way, or to any extent whatever, to the subject of slavery should be laid on the table. I intended to take the decision of the Speaker before I went one step toward presenting or offering to present that petition.

If the House should choose to read the petition, I can state to them they would find it something very much the reverse of that which the resolution states it to be; and if the gentleman from Alabama [Mr. Lewis] still shall choose to bring me to the bar of the House, he must amend his resolution in a very important particular; for he probably may have to put into it that my crime has been for attempting to introduce the petition of slaves that slavery should not be abolished.

Mr. THOMPSON was sorry to see the air of levity which it is attempted to throw over this matter. Is it a light thing, for the amusement of others, to irritate, almost to madness, the whole delegation from the slave States? It is intimated that the petition does not pray for the abolition of slavery, but a very different object. It makes not the slightest difference; it is the attempt to introduce a petition from slaves for any object; as insolent if it be for one purpose as for another.

Mr. T. then further modified his resolution by substituting the three following resolutions:

1. *Resolved*, That the honorable John Q. Adams, by an effort to present a petition from slaves, has committed a gross contempt of this House.
2. *Resolved*, That the member from Massachusetts above named, by creating the impression and leaving the House under such impression, that

and that slaves can be heard in a legislative body only through the agency of their owners? But if the petition was a hoax, then the conduct of the gentleman was still more unjustifiable. It was adding insult to injury. The gentleman, if such is his disposition, may enjoy this joke, and enjoy this scene; but farces of this kind neither suit the humor of the slaveholding States nor comport with the character and dignity of the legislature of the nation.

GEORGE C. DROMGOOLE [Va.] said he preferred action on a question of this character rather than debate, and he had risen only for the purpose of requesting the gentleman from South Carolina [Mr. Thompson] to accept a modification he would send to the clerk's table.

The modification was read, as follows:

1. *Resolved*, That the honorable John Quincy Adams, a member of this House, by stating in his place that he had in his possession a paper purporting to be a petition from slaves, and inquiring if it came within the meaning of a resolution heretofore adopted (as preliminary to its presentation), has given color to the idea that slaves have the right of petition, and of his readiness to be their organ; and that for the same he deserves the censure of this House.
2. *Resolved*, That the aforesaid John Q. Adams receive a censure from the Speaker, in the presence of the House of Representatives.

Mr. THOMPSON accepted the above as a substitute for his own resolutions.

Mr. ALFORD.—Mr. Speaker, the member from Massachusetts would screen himself from the censure of this House because he has not sent his petition from slaves to your table. Sir, he has sent the petition from the free negroes of Fredericksburg, and that is as wrong and insulting to us as if it were from slaves. The Constitution of these United States no more allows the one than the other, and both are equally insulting.

Sir, there seems to be some difference of opinion among our friends here as to what course we ought to pursue in this awful crisis of our beloved country. Some of our friends, as patriotic as any, have urged, in this debate, that we ought not to sit here and submit to this outrageous course of things; that, if it does not cease, we should go home. No, sir; no, sir; this must not be; we will neither submit nor retire. If they prosecute this measure in this House by attempts at legislating us out of our rights, we will resist it here by legislative acts as long as we can; and if at last they prove too strong for us, and succeed in passing unconstitutional laws, to rob us of our property, to murder our wives and children, still we will not

the said petition was for the abolition of slavery, when he knew that it was not, has trifled with the House.

3. *Resolved*, That the honorable John Q. Adams receive the censure of the House for his conduct referred to in the preceding resolutions.

FRANCIS W. PICKENS [S. C.] said that presenting the petition was in itself admission that Mr. Adams had communication with slaves, and was evidence, in law, of collusion. It broke down the principle that the slave could be known only through his master. For this he was indictable, under statute, for aiding and abetting insurrection; and for such conduct is he not amenable to the censure of this House? The privilege of speech protected a member from being questioned before any other tribunal, but does not exempt him from being questioned before this House.

CHURCHILL C. CAMBRELENG [N. Y.] observed: When the honorable member from Alabama [Mr. Lewis] presented his resolution he felt that, great as the sacrifice was to bring to the bar of this House one who had occupied the highest station on earth, as President of the United States, yet it ought to be made. But now, after having heard the explanation of the honorable gentleman [Mr. Adams], he viewed the subject altogether in a different light. It appeared to him that that gentleman [Mr. Adams] had been hoaxed by some young men in Fredericksburg. The contents of the petition were known in this House before the gentleman from Massachusetts announced them. It was manifestly designed to make him appear ridiculous by presenting a petition praying for his own expulsion. It came from a slaveholding quarter, and was no doubt designed to insult him for presenting so frequently abolition petitions.

HENRY L. PINCKNEY [S. C.]—It seems, then, that the petition which the gentleman offered to present is not a petition in point of fact; that it is nothing more than a quiz, or a hoax, which has been played off upon the gentleman himself; and that, probably, in retaliation for the joke practiced on himself, he determined to carry it still further by playing it off upon the House. But whether the petition was genuine or not; whether it prayed for the abolition of slavery or the expulsion of the gentleman himself; and whether the gentleman was in jest or earnest, his conduct was unquestionably reprehensible, and such as ought to be visited with the severest censure of the House. If the petition was genuine, it was an indignity to the House to have offered to present it, purporting, as it did, to come from slaves. Does not the gentleman know that the right of petition only attaches to the free white people of the Union,

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submit; they must change the Constitution before they can bind us by any laws of abolition; this they never can do if the South is true to itself. And true we shall be, I hope in God, to our Constitution, our wives, our children, and our country. If still they pursue us to the last, and attempt to do by force what they never can do by law, we will not be found wanting; we will not desert this Capitol nor this country. This is the Old Dominion; this land is ours as well as theirs; it was ceded by Virginia and Maryland, where slavery is tolerated by law. Shall we leave it, then, to the dominion of force, and that, too, inflicted by the unhallowed arm of the wild and worse than savage fanatic? No, never!

Let me tell gentlemen it is a firm and unconquerable resolution never to surrender one jot or tittle of our constitutional rights upon this subject. We have a common interest in this Government, a common title in this capital; it bears the name of the immortal Washington, and he was a Southern man. Shall we, then, ever surrender the one or desert the other? No, never! Never until this fair city is a field of Waterloo and this beautiful Potomac a river of blood.

CALEB CUSHING [Mass.]—Gentlemen talk to us of these our great fundamental rights—as the freedom of speech, of opinion, of petition—as if they were derived from the Constitution of the United States. I scout such a doctrine. If there were a drop in my veins that did not rebel against the sentiment, it would be bastard blood. Sir, I claim to be descended from the king-killing Roundheads of the reign of Charles the First; through a race of men not unremembered in peace or war; never backward in the struggles of liberty; a family upon the head of a member of which the first price of blood was set by Great Britain, in revenge for his early devotion to the cause of independence. I venerate their character and their principles. I am ready to do as they did—to abandon all the advantages of country, home, fortune, station—to fly to some Western wilderness—and to live upon a handful of parched corn and a cup of cold water, with God's blessing on honest independence—sooner than surrender one jot or tittle of those great principles of liberty which I have sucked in with my mother's milk. I disdain to hold these rights by any parchment title. The people of the Commonwealth of Massachusetts, the people of every State of this Union, came into it in the full possession and fruition of all these rights. We did not constitute this Government as the means of acquiring new rights, but for the protection of old ones, which nature had conferred upon us; which the

Constitution rightly regards as preëxisting rights; and as to which all the Constitution does is to provide that these rights neither you nor any power on earth shall alter, abrogate, or abridge. They are rights of Heaven's own giving. We hold them by the supreme tenure of revolution. We hold them by the dread arbitrament of battle. We hold them by the concession of a higher and broader charter than all the constitutions in the land—the free donation of the eternal God, when he made us to be men. These, the cardinal principles of human freedom, he has implanted in us and placed them before and behind and around us for our guard and guidance, like the cloud by day and the pillar of fire by night which led the Israelites through the desert. It is a liberty, native, inborn, original, underived, imprescriptible; and acknowledged in the Constitution itself, as preëminently before and above the Constitution.

Now, in their denunciations of the North, it is these, the very primordial rights of the universal people of the United States, that gentlemen from the South assail. They strike at the freedom of opinion, of the press, and of speech, out of doors—and the rights of petition and debate in this House.

It seems to be imputed as a crime, to a portion of the inhabitants of the non-slaveholding States, that they entertain sentiments condemned by a majority of this nation. But can it be a crime? I appeal once again to that portion of the members from the South who are foremost in this debate—I mean the gentleman from South Carolina [Mr. Thompson] and his friends—who on certain subjects differ in opinion with a great majority of their countrymen; and I ask them whether they stand prepared to abide by and sustain the doctrine that opinions unacceptable to the majority are a moral or political crime? Will they apply to themselves the rule of judgment which they urge so vehemently against the people of the North? Will they deliberately sanction such an odious doctrine? I know they cannot. They must perceive that it is impossible by any act of the will to control the conclusions of the mind. It is our duty, in all the contingencies of life, to weigh well the facts and the reasonings upon which our judgments are to be formed; to apply to every question a conscientious desire to arrive at the truth; to spare no means to inform ourselves rightly as to the matters which the mind is to judge. But the result is not a thing within the scope of the will. And it is monstrous, therefore, to bring opinions to the bar of legal censure. It is a violation of the interior sanctuary of a man's own

a social, moral, and political evil. I will not, Mr. Speaker, debate the question whether slavery be or be not, in the abstract, a social, moral, or political evil, but I refer to what the honorable gentleman said to prove what are the grievances of the abolitionists and what their objects. Slavery, according to his *exposé* of their views, is their grievance—universal emancipation, then, must be their object.

If they prevail in that object, through the action of Congress, what becomes of the rights of the slave States, as guaranteed to them by the Constitution? What becomes of the Government? Sir, it is plain that the end of these things, if successful, terminates in the overthrow of the Government.

MR. PATTON then moved the following amendment of the motion before the House:

Resolved, That any member who shall hereafter present to the House any petition from the slaves in this Union ought to be considered as regardless of the feelings of the House, the rights of the Southern States, and unfriendly to the Union.

Resolved, That the honorable John Q. Adams having solemnly disclaimed all design of doing anything disrespectful to the House, in the inquiry he made of the Speaker, as to the petition purporting to be from slaves, and having avowed his intention not to offer to present the petition to the House, was of opinion that it ought not to be presented—therefore, all further proceedings in regard to his conduct do now cease.

MR. THOMPSON accepted.

MR. ADAMS.—Petition, sir, is a right belonging to every human creature, which does not depend upon the condition of the petitioner, and which cannot be denied to man in any condition. This, sir, is the principle involved in the inquiry put by me to the Chair—a principle more than recognized by the Constitution, which has declared that this right shall suffer no abridgment, no limitation whatever! If you now abolish this principle, this first and humblest right given from God to every human being, a limitation will next be put to the right of petitioning, in the fullest extent to which party madness might hereafter be inclined to carry it. If the House shall decide that the paper I possess comes under the order of the House of the 18th of January, I will present the petition, and in doing so shall be doing my duty—a duty of the highest importance to my country, to humanity, and to human nature. What, sir? Will you put the right of petitioning, of craving for help and mercy and protection, on the footing of political privileges? It is an idea which has not even been entertained by the utmost extreme of human despotism; no despot, of any age or clime,

soul. It is the very acme of tyranny. The arbitrary power to condemn and punish opinion is that which gave birth to the Protestant Reformation, and which has rendered the Inquisition a byword of odium and reproach. It is that self-same thing from which our fathers fled—the Puritans, the Catholics, the Quakers, the Huguenots—when they left their native Europe to found an asylum for conscience in this New World. It is that which has nerved the arm and edged the sword in every contest of liberty which lightens along the history of civilized man.

Sir, I put it to gentlemen, in all directness and sincerity, do they suppose that angry attacks on the freedom of opinion, of speech, of the press, of petition, of debate are likely to check the spread in the United States of that disapprobation of slavery which is but another form, conversely considered, of the love of liberty? Do they deem it possible to smother the opinions and stifle the petitions of the free men of the United States? Ay, and of the free women too? For I confess it seems to me a strange idea to uphold, in this enlightened age, that woman, refined, educated, intellectual woman, is to have no opinion or no right to express that opinion. Do gentlemen soberly think their cause can be strengthened in the country by bringing to the bar of the House for contempt, by subjecting to censure, by expelling a representative of one of the free States, because he may have given color to the idea that slaves can petition Congress?

RICHARD FRENCH [Ky.] said: The honorable gentleman from Massachusetts [Mr. Cushing] contended that the right of petition was a natural right, derived from our Creator; and, being a natural right, so derived, belonged to all human beings. If that gentleman meant that all men have the natural right to supplicate the Deity, he is right. If he meant that all men, while in a state of nature, had the right to petition their fellow-beings for what they wanted, he is right. If he meant that all men, in their personal relations and intercourse, have the same right now, he is right. But if he meant that all men have the right to petition the Government, I think he is wrong.

Sir, there was a time when civil government did not exist; and how can a man be said to have a natural right to petition a political being who had no voice in its creation—who is neither party nor privy to the body politic?

That gentleman was pleased also to favor us with what he termed the abstract opinions of the abolitionists—opinions which, as he said, they honestly and conscientiously entertained. And what are those opinions? That slavery is, in the abstract,

has ever denied this humble privilege to the poorest or the meanest of human creatures. If this House decides that it will not receive petitions from slaves, under any circumstances, it will cause the name of this country to be enrolled among the first of barbarous nations. A petition is a supplication; and supplication for what? For relief from those who have the power to give relief, and who are placed in a situation to attend to the cry of distress. That would be a sad day, sir, in my opinion, when a vote should pass this House that would not receive a petition from slaves! What would it lead to? When the principle is once begun of limiting the right of petition, where would it stop? Gentlemen have objected to the petition immediately preceding that which I presented because it came from colored people! from color! That, sir, is giving color to an idea with a witness! The honorable gentleman makes it a crime because I presented a petition which he affirms to be from colored women, which women were of infamous character, as the honorable gentleman says, prostitutes, I think the gentleman said.

MR. PATTON explained. He did not say they were prostitutes; the objection he made was that the petition came from free mulattoes in the South; he did not object on the ground of opposition to the right of petition, but because he considered that the House ought to refuse to open its doors to applications from the Southern slaves. As to the infamous character of the women in question he mentioned that, not as if he deemed it a reason for refusing the right to petition, but because he wished to wipe away the stain from the ladies of Fredericksburg, as these women had been called "ladies of Fredericksburg" by the honorable gentleman [Mr. Adams]. He was sure that no ladies from Fredericksburg had sent such a petition to this House.

MR. ADAMS continued: He was not certain that he called them ladies or whether the petition itself had not stated that they were ladies. Whenever he presented petitions from ladies he was not in the habit of using that term for their designation; the word "woman" was an expression much dearer to his heart than that of "lady." But to return to the idea he was about to enforce. He thought the honorable gentleman had said that they were infamous; but the proposition which he would ever maintain was that the sacred right of petition, of begging for mercy, as it did not depend upon condition, so also it did not

¹ One of the resolutions presented to the House charges Mr. Adams with giving color to the idea, etc.

depend upon character; it was a right which could not be denied to the poorest, the humblest, and the most wretched; and, moreover, it was a right which could not be refused to the most vile, the most abandoned, or most infamous. He did not, however, know that they were in the present case infamous, but he thought that was the word used in debate by the honorable gentleman, and that it was so reported in the *National Intelligencer*.

Mr. Patton again explained. He had not said that he knew those women.

Mr. Adams continued: He was glad to hear the honorable gentleman disclaim any knowledge of them; for he had been going to ask, if they were infamous women, then who was it that had made them infamous? Not, he believed, their own order, but their masters; and he had heard it said, in proof of this fact, and he was inclined to believe it was the case, that there existed great resemblances in the South between the progeny of the colored people and the white man who claimed the possession of them. Thus, perhaps, the charge of being infamous might be related upon those who made it, as originating from themselves.

[Great agitation in the House.]

If you once admit the principle that the right of petition is limited, and will not apply to slaves, the next thing will be to limit it still further, by extending the limitation to free colored people; and, after this, the next limitation will be to the question of the character of the petitioners; then the next limitation will be to inquire on what side of political parties are the petitioners; and then, sir, from one side all petitions will be perfectly good and respectable, but on the other side all the petitions will be from people of bad character, according to the representations of any member who may say he does not know who they are; they will be all infamous, sir, who are on the wrong side. This will be the case. To this state will things come if the right of petition shall be limited by peculiar distinctions, and shall be made to rest on such grounds as those which have been relied upon in this debate.

I do not propose, sir, to go through all the speeches which fell upon me so thickly, which came down, pouncing upon me like so many eagles upon a dove, calling me infamous, with other harsh expressions; nay, from one quarter of the House I heard cries, "Expel him! Expel him!" All of these, sir, re-

mind me of what Dame Quickly says: "Oh! day and night, but these are bitter words." But, sir, I was to be found guilty, sir, for permitting the House to believe as true a thing which there had not been one word uttered by me authorizing them even to infer, much less to believe.

I did not get up soon enough to set all these gentlemen right, to show them the best way to censure me, and prevent them from running wild in the manner they had done, bringing forward resolutions in such rapid succession, but all of them, unfortunately for the movers, contrary to facts. I beg the honorable gentlemen [Messrs. Lewis and Thompson] to remember that in offering this resolution to the House, inflicting censure upon one who has never, in all his parliamentary career, given offence to them, they went a little beyond the bounds of that course of conduct which is due from one gentleman of this House to another; and I would only give them one word of friendly admonition that, when in future they may wish to censure me, they would first be careful to pay more attention to facts.

If the law of South Carolina is a good argument to the gentlemen from South Carolina [Mr. Thompson], and if a member of that legislature is made amenable for words spoken in debate, not only to the legislature but also to the grand and petit juries—if that, sir, is the law of South Carolina, I thank God I am not a citizen of South Carolina! [Great agitation.]

Such a sentiment, sir, uttered in this House, such a threat held out to the representatives of this nation, when it shall come before the world in the report of this debate, cannot fail to excite contempt and amazement; and it will be a matter of no less surprise that, when utterance was given to such a sentiment, it was not immediately rebuked by the Speaker. What, sir! We, the representatives of the nation, are all of us subject to the grand jury of the District of Columbia for words here spoken? We from the Northern and Eastern States are liable, sir, to be indicted as felons and incendiaries for presenting petitions not exactly agreeable to some members from the South? Is that the tenure on which we hold our seats? If it is, I wish the House may pass the resolution that whoever hereafter proposes to hand up a petition from slaves is an enemy to the Union.

If, when the gentleman [Mr. Thompson], instead of coming at once to a solution of that question, brought forward his resolution of censure against me—sir, if he thought to frighten me from my purpose—if that, sir, was his object, he mistook his

argument. I am not to be intimidated by the gentleman from South Carolina [Mr. Thompson], nor by all the grand juries in the universe. The right by which every member of this House holds his seat here is of the deepest and utmost importance to the whole nation; and I trust this debate will be read by every portion of the country, and that, among other astonishing things in this debate, the astonishing threat of the gentleman will not be forgotten. We have heard, sir, of the great superiority of Anglo-Saxon blood. What, sir! is there a drop of that blood flowing in the veins of any man who will subscribe to such a political doctrine as this? How little does such a person understand of the true principles of freedom in relation to the powers of a legislative assembly! I would ask every member of this House what would have been the issue if, in the British House of Commons, one member of Parliament should tell another member that, for what he had said or done in Parliament, he should be made amenable to the grand jury of the city of Westminster? Sir, it would be too ridiculous for indignation; it would excite one universal shout of laughter; it would from thenceforth render him who had uttered the menace

"Dreaded to retch his whole life long,
And the sad burden of some merry song."

It is not possible for me to make any defence in any system or order. What defence can be made against this new crime of giving order to blood? But, I beg to say, I should deem it to be the basest cowardly which has ever befallen me in the course of a life checked with many vicissitudes if a vote of censure from this House should pass upon my name or upon any action of mine in this House. And now, when I thus speak, am I treating with contempt this House? Have I ever done so? Has not the honor of this House been among the first and dearest sentiments of my heart? I have reverenced this House as the representatives of the whole people of this Union. I have further felt that sentiment which is called the *esprit de corps*. I stood in this House if I have not been the first to come forward and defend its honor and dignity on more than one occasion. And now am I to be brought to the bar for a contempt of this House, for doing that which was done in the most respectful manner which it was possible to devise? For asking a question of the Speaker—consulting him first upon the advisability of a petition by the rules of the House? If I am deserving censure for making this inquiry of the Speaker, your Speaker, who made the inquiry of the House, is much more

deserving of censure. But if a majority of this House shall be found to pass censure on me, be it so; and if I have an enemy, let him know that he has triumphed; for a worse calamity could not befall me on earth.

Here I will say that I am not conscious of having given the least particle of offence to the House, nor of having done anything which I would not do over again. My conduct was dictated by a sense of duty, and in the same persuasion of what was my duty I remain still unshaken. But, sir, among other things alleged as reasons for censuring me, it has been said I have trifled with the House. I have already disclaimed, and again I not only disclaim any such intention but I deny that any man in this House has ever had cause to believe that I ever trifled with the House. I never was more serious in any moment of my life; therefore, I am unwilling that a resolution should pass containing the declaration that the House ceased all further action on the subject because I made disclaimers. I renounce all advantages on the ground of my having made a disclaimer. While I totally disclaim any intention of trifling with the House, while I totally disclaim any purpose of offending or provoking any of the members of this House, while I totally disclaim any contemptuous course or any violation of the rules and orders of the House, sir, at the same time, I disclaim not any particle of what I have done; not a single word of what I have said do I unay; nay, I am ready to do and to say the same again to-morrow.

The question was then taken on the first resolution and decided in the negative—yeas 92, nays 105.

The question was then taken on the second resolution, and passed in the negative—yeas 21, nays 137.

Mr. Adams fulfilled his promise in overflowing measure by presenting hundreds of abolition petitions to Congress, only to see them all subjected to the formal process of tabling or reference to the oblivion of a committee room.

During the debates in the Senate on the anti-slavery petitions frequent reference was made by the Southern Senators to "incendiary" publications and pictures sent South through the mails by Northern abolitionists, which, it was claimed, were calculated to excite the slaves to revolt, and, like the insurgent negroes of San Domingo, massacre the white owners and their wives.

and children. Thomas H. Benton [Mo.], in a speech upon the subject, exhibited one of these pictures in the Senate chamber. As described by him it represented "a large and spreading Tree of Liberty, beneath whose ample shade a slave owner was at one time luxuriously reposing, with slaves fanning him; at another, carried forth in a palanquin, to view the half-naked laborers in the cotton field, whom drivers, with whips, were scourging to the task."

President Jackson, in his message at the beginning of the session, had already brought the subject of these publications to the attention of Congress, and suggested that the Federal legislature should enact such measures as would prevent the Postoffice Department, "which is designed to foster an amicable intercourse and correspondence between all the members of the Confederacy" from "being used as an instrument of an opposite character."

On motion of John C. Calhoun [S. C.] the Senate appointed a special committee consisting of three Southerners and two Northerners, of which he was made chairman, to report on the matter. The committee brought in a bill subjecting to penalties any postmaster who should knowingly put in the mail any publication or picture touching on the subject of slavery to go into any State or Territory where such prints were forbidden by its laws.

The bill was accompanied by a voluminous report of a minority of the committee, which was evidently framed by Senator Calhoun. Parts of this report occasioned much controversy, the chief issues being (1) its presentation of the "compact" theory of the United States Government, which, if accepted, would justify the South Carolina "Nullifiers" for their actions,¹ and (2) its assumption that the internal peace of the slave States was in imminent danger from the actions of the Abolitionists, and therefore that it was the right of these States to demand that the free States suppress the abolition agitation at its sources within their borders.

¹ See Volume V, chapters i and ii.

such as their ancestors were when brought into the country, have ever advanced in the same period so rapidly in numbers and improvement.

To destroy the existing relations would be to destroy this prosperity and to place the two races in a state of conflict which must end in the expulsion or extirpation of one or the other. No other can be substituted, compatible with their peace or security. The difficulty is in the diversity of the races. So strongly drawn is the line between the two, in consequence of it, and so strengthened by the force of habit and education, that it is impossible for them to exist together in the same community, where their numbers are so nearly equal as in the slaveholding States, under any other relation than that which now exists. Social and political equality between them is impossible. No power on earth can overcome the difficulty. The causes resisting lie too deep in the principles of our nature to be surmounted. But, without such equality, to change the present condition of the African race, were it possible, would be but to change the form of slavery. It would make them the slaves of the community instead of the slaves of individuals, with less responsibility and interest in their welfare on the part of the community than is felt by their present masters; while it would destroy the security and independence of the European race if the African should be permitted to continue in their changed condition within the limits of those States. They would look to the other States for support and protection, and would become, virtually, their allies and dependents; and would thus place in the hands of those States the most effectual instrument to destroy the influence and control the destiny of the rest of the Union. It is against this relation between the two races—that the blind and criminal zeal of the abolitionists is directed—a relation that now preserves in quiet and security more than 6,500,000 of human beings, and which cannot be destroyed without destroying the peace and prosperity of nearly half the States of the Union, and involving their entire population in a deadly conflict that must terminate either in the expulsion or extirpation of those who are the object of the misguided and false humanity of those who claim to be their friends. He must be blind indeed who does not perceive that the subversion of a relation which must be followed with such disastrous consequences can only be effected by convulsions that would devastate the country, burst asunder the bonds of Union, and ingulf in a sea of blood the institutions of the country. It is madness to suppose that the slaveholding States would quietly submit

ABOLITION AND DISUNION

MINORITY REPORT OF SENATOR CALHOUN ON SUPPRESSING ANTI-SLAVERY AGITATION

He who regards slavery in those States simply under the relation of master and slave, important as that relation is, viewed merely as a question of property to the slaveholding section of the Union, has a very imperfect conception of the institution and the impossibility of abolishing it without disasters unexampled in the history of the world. To understand its nature and importance fully, it must be borne in mind that slavery, as it exists in the Southern States, involves not only the relation of master and slave but also the social and political relations of two races of nearly equal numbers, from different quarters of the globe, and the most opposite of all others in every particular that distinguishes one race of men from another. Emancipation would destroy these relations would divest the masters of their property, and subvert the relation, social and political, that has existed between the races from at most the first settlement of the Southern States. It is not the intention of the committee to dwell on the pecuniary aspect of this vital subject, the vast amount of property involved, equal at least to \$950,000,000; the ruin of families and individuals; the impoverishment and prostration of an entire section of the Union, and the fatal blow that would be given to the productions of the great agricultural staples, on which the commerce, the navigation, the manufactures, and the revenue of the country almost entirely depend. As great as these disasters would be, they are nothing compared to what must follow the subversion of the existing relation between the two races, to which the committee will confine their remarks. Under this relation the two races have long lived in peace and prosperity, and if not disturbed would long continue so to live. While the European race has rapidly increased in wealth and numbers, and at the same time has maintained an equality, at least morally and intellectually, with their brethren of the non-slaveholding States, the African race has multiplied with not less rapidity, accompanied by great improvement physically and intellectually, and the enjoyment of a degree of comfort with which the laboring class in few countries can compare, and confessedly greatly superior to what the free people of the same race possess in the non-slaveholding States. It may, indeed, be safely asserted that there is no example in history in which a savage people,

to be sacrificed. Every consideration—interest, duty, and humanity, the love of country, the sense of wrong, hatred of oppressors and treacherous and faithless confederates, and finally despair—would impel them to the most daring and desperate resistance in defence of property, family, country, liberty, and existence. But, wicked and cruel as is the end aimed at, it is fully equalled by the criminality of the means by which it is proposed to be accomplished. These, as has been stated, consist in organized societies and a powerful press, directed mainly with a view to excite the bitterest animosity and hatred of the people of the non-slaveholding States against the offices and institutions of the slaveholding States. It is easy to see to what disastrous results such means must tend. Passing over the more obvious effects, their tendency to excite to insurrection and servile war, with all its horrors, and the necessity which such tendency must impose on the slaveholding States to resort to the most rigid discipline and severe police, to the great injury of the present condition of the slaves, there remains another, threatening incalculable mischief to the country. The inevitable tendency of the means to which the abolitionists have resorted to effect their object must, if persisted in, and in completely alienating the two great sections of the Union. The incessant action of hundreds of societies and a vast printing establishment throwing out daily thousands of artful and inflammatory publications, must make, in time, a deep impression on the section of the Union where they freely circulate, and are mainly designed to have effect. The well-informed and thoughtful may hold them in contempt, but the young, the inexperienced, the ignorant and thoughtless will receive the poison. In process of time, when the number of proselytes is sufficiently multiplied, the artful and profligate, who are ever on the watch to seize on any means, however wicked and dangerous, will unite with the fanatics and make their movements the basis of a powerful political party that will seek advancement by diffusing, as widely as possible, hatred against the slaveholding States. But, as hatred begets hatred, and animosity animosity, those feelings would become reciprocal, till every vestige of attachment would cease to exist between the two sections, when the Union and the Constitution, the offspring of mutual affection and confidence, would forever perish. Such is the danger to which the movements of the abolitionists expose the country. If the force of the obligation is in proportion to the magnitude of the danger, stronger cannot be imposed than is at present on the States within whose limits the danger originates, to arrest

its further progress—a duty they owe, not only to the States whose institutions are assailed, but to the Union and Constitution, as has been shown, and, it may be added, to themselves.

John P. King of Georgia, spokesman of the majority of the committee, said that positions had been assumed and principles insisted upon by Mr. Calhoun which were not only inconsistent with the bill reported, but, he thought, inconsistent with the "existence of the Union itself, and which, if established and carried into practice, must hasten and in its dissolution."

In reply to Senator King Senator Calhoun said:

SLAVERY PARAMOUNT TO FEDERAL LAWS

REPRESENTATIVE CALHOUN

The legislatures of the South, backed by the voice their constituents expressed through innumerable meetings, have called upon the non-slaveholding States to express the movements made within the jurisdiction of those States against their peace and security. But a step has been taken, and a law has been passed, or even proposed. Nor have we been less disappointed as to the proceedings of Congress. Believing that the general Government has no right or authority over the subject of slavery, we had just grounds to hope Congress would refuse all jurisdiction in reference to it, in whatever form it might be presented. The very opposite course has been pursued. Abolition petitions have not only been received in both Houses, but received on the most obnoxious and dangerous of all grounds—that we are bound to receive them; that is, to take jurisdiction of the question of slavery whenever the abolitionists may think proper to petition for its abolition, either here or in the States. Thus far, then, we of the slaveholding States have been grievously disappointed. One question still remains to be decided that is presented by this bill. To refuse to pass this bill would be virtually to acquiesce with the abolitionists—would be to make the officers and agents of the postoffice department in effect their agents and abettors in the circulation of their incendiary publications in violation of the laws of the States. It is your unquestionable duty, as I have demonstrably proved, to abstain from their violation; and, by refusing or neglecting to discharge that duty, you would clearly enlist, in the existing

removed from office. It would be necessary also for the deputy postmasters referred to in this bill to make themselves acquainted with all the various laws passed by the States touching the subject of slavery, and to decide on them, no matter how variant they might be with each other. The bill conflicts with that provision in the Constitution which prohibits Congress from passing any law to abridge the freedom of speech or of the press. What is the liberty of the press? It is the liberty of printing as well as the liberty of publishing, in all the ordinary modes of publication; and is not the circulation of papers through the mails an ordinary mode of publication? I am afraid that we are in some danger of taking a step in this matter that we may hereafter have cause to regret, by its being contended that whatever in this bill applies to publications touching slavery applies to other publications that the States might think proper to prohibit, and Congress might, under this example, be called upon to pass laws to suppress the circulation of political, religious, or any other description of publications which produced excitement in the States. In this bill in accordance with the general force and temper of the Constitution and its amendments? It is not in accordance with that provision of the instrument under which the freedom of speech and of the press was secured. Whatever laws the State legislatures might pass on the subject, Congress is restrained from legislating in any manner whatever, with regard to the press. It will be admitted that, if a newspaper came directed to me, I have a property in it; and how could any man, then, take that property and burn it without due form of law? And I do not know how this newspaper could be pronounced an unlawful publication without a legal trial. The right of an individual in his papers is secured to him in every free country in the world. In England, it is expressly provided that the papers of the subject shall be free from all unreasonable searches and seizures—language to be found in our Constitution. This principle established in England, so essential to liberty, has been followed out in France, where the right of printing and publishing is secured in the fullest extent, the individual publishing being amenable to the laws for what he publishes, and every man prints and publishes what he pleases, at his peril.

The bill was finally rejected by a vote of 25 to 19, 61 votes of the majority being from slave States.

In a tie vote on one of the preliminary stages Martin Van Buren [N. Y.], Vice President of the United States

controversy, on the side of the abolitionists against the Southern States. Should such be your decision, by refusing to pass this bill, I shall say to the people of the South, look to yourselves—you have nothing to hope from others. But I must tell the Senate, be your decision what it may, the South will never abandon the principles of this bill. If you refuse co-operation with our laws, and conflict should ensue between your and our law, the Southern States will never yield to the superiority of yours. We have a remedy in our hands, which, in such events, we shall not fail to apply. We have high authority for asserting that, in such cases, "State interposition is the rightful remedy"—a doctrine first announced by Jefferson—adopted by the patriotic and Republican State of Kentucky by a solemn resolution in 1798, and finally carried out into successful practice on a recent occasion, ever to be remembered, by the gallant State which I, in part, have the honor to represent. Let it be fixed, let it be riveted in every Southern mind, that the laws of the slaveholding States for the protection of their domestic institutions are paramount to the laws of the general Government in regulation of commerce and the mail, and that the latter must yield to the former in the event of conflict; and that, if the Government should refuse to yield, the States have a right to interpose, and we are safe. With these principles, nothing but concert would be wanting to bid defiance to the movements of the abolitionists, whether at home or abroad, and to place our domestic institutions, and with them, our security and peace, under our own protection, and beyond the reach of danger.

FREEDOM OF THE MAILE

SENATOR WEBSTER

SENATOR DANIEL WEBSTER opposed the bill because of its vagueness and obscurity in not sufficiently defining what were the publications the circulation of which it intended to prohibit. It is impossible to say what publications might not be prohibited from circulation. No matter what is the publication, whether for or against slavery, if it touches the subject in any shape or form, it will fall under the prohibition. Even the Constitution of the United States might be prohibited, and the person who is clothed with the power to judge in this delicate matter is one of the deputy postmasters, who, notwithstanding the difficulties with which he is encompassed in coming to a correct decision, must decide correctly, under pain of being

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and President of the Senate, had given his casting vote in favor of the bill. In his inaugural address as President, March 4, 1837, Mr. Van Buren referred to his position on the abolition question as follows:

Perceiving, before my election, the deep interest this subject was beginning to excite, I believed it a solemn duty fully to make known my sentiments in regard to it; and now, when every motive for misrepresentation has passed away, I trust that they will be candidly weighed and understood. At least they will be my standard of conduct in the path before me. I then declared that, if the desire of those of my countrymen who were favorable to my election was gratified, "I must go into the presidential chair the inflexible and uncompromising opponent of every attempt, on the part of Congress, to abolish slavery in the District of Columbia, against the wishes of the slaveholding States; and also with a determination equally decided to resist the slightest interference with it in the States where it exists." I submitted also to my fellow-citizens, with fullness and frankness, the reasons which led me to this determination. The result authorized me to believe that they have been approved, and are corded in, by a majority of the people of the United States, including those whom they most immediately affect. It now only remains to add that no bill conflicting with these views can ever receive my constitutional sanction.

On December 20, 1837, William Slade [Vt.] presented in the House two memorials on the abolition of slavery in the District of Columbia. He had entered into a general denunciation of slavery when Henry A. Wise [Va.] called him to order for speaking beside the question. The Speaker, John White [Ky.], asked Mr. Slade to confine his remarks to the subject. Mr. Slade continued, quoting from the Declaration of Independence.

Thorsen Hopkins Hakey [Ga.] and R. Barnwell Rhett [S. C.] called upon the delegations of their respective States to withdraw from the House to the room of the Committee on the District of Columbia.

The Southern Representatives met in the committee room and Mr. Rhett brought forward two resolutions: (1) that, the Constitution having failed to protect the South in the peaceable possession and enjoyment of

their rights and peculiar institutions, it was expedient that the Union be dissolved, and (2) that a committee of two members from each State be appointed to report upon the best means of peaceably dissolving it. It was intended to present these in Congress, where, though certain to be tabled, they would serve to voice the protest of the South against the abolition agitation.

Mr. Rhett's propositions were negatived by the conference, and one by John M. Patton [Va.] was adopted, to the effect that all petitions, etc., on slavery be laid on the table without being read or debated. Upon the next day Mr. Patton read the resolution for the information of the members and asked leave to submit it. John Quincy Adams [Mass.] objected, whereupon Mr. Patton moved for a suspension of the rules in order to submit the resolution. To carry this motion a two-thirds majority was necessary, and this was obtained on the vote, 135 yeas to 60 nays. The resolution was then submitted, and Mr. Patton, to shut off debate, moved the "previous question." Mr. Adams rose to speak when his voice was drowned by cries of "Order!" from over the House. The question (requiring only a majority) was carried against a minority vote of 74, and the gag law was thereby extended to forbid petitions on slavery even to be read in the House.

CHAPTER IV

THE WILMOT PROVISIO

[DEBATES ON THE PROHIBITION OF SLAVERY IN THE TERRITORIES]

David Wilmot [Pa.] Introduces in the House, as an Amendment to Bill Appropriating Money to Buy Mexican Territory, the Proviso That Slavery Shall Be Excluded from the Purchase. Senator Lewis Cass [Mich.] Advances Doctrine of "Popular Sovereignty"—Debate: In Favor, Mr. Wilmot, Timothy Jenkins [N. Y.], Joshua R. Giddings [O.]; Opposed, William H. Brockenbrough [Fla.], John C. Calhoun [S. C.] Introduces in Senate Resolutions Denying the Right of Congress to Prohibit Slavery in the Territories: His Argument on the Resolutions—Reply by Thomas H. Benton [Mo.]—Resolutions of Daniel Webster [Mass.] Against Prosecuting the Mexican War for Territorial Aggrandizement—Senator Benton's Commentary on the Calhoun Resolutions—Cession by Mexico to United States of California and New Mexico—Bill to Organize These Territories and Oregon, Leaving Slavery to Be Settled by the Supreme Court—Debate in the Senate: In Favor, John M. Clayton [Del.], John H. Clarke [R. I.], Sidney Broom [Ill.], Samuel S. Phelps [Vt.], Joseph R. Underwood [Ky.], Andrew P. Butler [S. C.], Henry S. Foote [Miss.], Alfred Iverson [Ga.], Beverly Johnson [Md.]; Opposed, Jacob W. Miller [N. J.], Thomas Fitzgerald [Mich.], Thomas Corwin [O.], George E. Badger [N. C.], John A. Dix [N. Y.]—Bill Is Passed in the Senate, but Tabled in the House on Motion of Alexander H. Stephens [Ga.]; Stephens's Argument—House Organizes Oregon Territory Without Slavery—Free Soil Party Declares Against Slavery in All the Territories—Debate in the Senate on the Oregon Bill: Pro-Slavery Speakers, James M. Mason [Va.], Senator Butler, Senator Calhoun, John Bell [Tenn.], General Samuel Houston [Tex.]; Anti-Slavery Speakers, William L. Dayton [N. J.], Senator Webster, John M. Nilan [Vt.]—Bill Is Passed—President Polk on "Popular Sovereignty"—President Polk Recommends a Compromise on the Question of Slavery in the Territories Acquired from Mexico—The House Adopts the Wilmot Proviso In Organizing the Territories—California Applies for Admission to the Union—Senator Stephen A. Douglas [Ill.] Reports Bill for Its Admission with Implicit Recognition of the Principle of "Popular Sovereignty"—Senator Robert M. T. Hunter [Va.] Opponents and Supports a Protest of the Virginia Legislature Against the Wilmot Proviso and

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Abolition of Slavery or the Slave Trade in the District of Columbia—Isaac P. Walker [Wis.] Moves in the Senate to Extend the Constitution Over the Territories: Debate on the Subject Between Daniel Webster [Mass.] and John C. Calhoun [S. C.]; Senator Walker's Motion Modified by John M. Berrien [Ga.], and Passed—Contest for Speaker of the House of Representatives: Howell Cobb [Ga.] Elected—Threats of Disunion Made by Richard K. Meade [Va.], Robert Toombs [Ga.], Alexander H. Stephens [Ga.], William F. Colcock [S. C.], Thomas L. Clingman [N. C.].

ON August 8, 1846, a bill was introduced in the House to appropriate \$2,000,000 for defraying extraordinary expenses which might be incurred in the intercourse between the United States and foreign nations (*i. e.*, in connection with the Mexican War) to be applied by the President. To this David Wilmot, a Democrat from Pennsylvania, offered as an amendment a proviso which had been drafted by Judge H. R. Brinkerhoff [O.]: that, if any part of the appropriation were to be used to purchase Mexican territory, "neither slavery nor involuntary servitude shall ever exist in any part of said territory except for crime, whereof the party shall first be duly convicted." The amendment was adopted by a vote of 83 to 64, and the bill as amended was passed by a vote of 85 to 79. The bill, with, of course, the proviso, failed to come to a vote in the Senate owing to the closing of the session.

During the recess of Congress the legislatures of every Northern State from New Hampshire to Ohio inclusive, and also Delaware, approved the proviso, both parties voting in its favor. It was expected that at the next session it would pass both Houses.

Early in this session (December 24, 1847), therefore, Senator Lewis Cass [Mich.], in order to defeat the proviso, enunciated a new doctrine in a letter to Alfred O. P. Nicholson, a Representative from Tennessee, saying that the principle of the Wilmot Proviso "should be kept out of the national legislature, and left to the people of the Confederacy in their respective local governments." This became known as the doctrine of "popular sovereignty." It was eagerly accepted by the Southern Democrats and pro-slavery Democrats in the

THE WILMOT PROVISIO

North, such as Stephen A. Douglas [Ill.], and they read anti-slavery Democrats, such as Wilmot, out of the party.

A bill appropriating \$3,000,000 with the proviso was introduced in both Houses. It passed in the House on February 15 (115 yeas to 106 nays) with the proviso, but the proviso was stricken out in the Senate on March 1, and in this form the bill was accepted by the House on March 3, 115 yeas to 81 nays.

In the debates in the House leading speakers in behalf of the proviso were Wilmot, Timothy Jenkins [N. Y.], and Joshua R. Giddings [O.] William H. Brockenbrough [Fla.] was the principal speaker in opposition.

THE WILMOT PROVISIO

HOUSE OF REPRESENTATIVES, FEBRUARY 8-MARCH 3, 1847

MR. WILMOT.—Sir, it will be recollected by all present that, at the last session of this Congress, an amendment was moved to a bill of a similar character by me, in the form of a proviso, by which slavery should be forever excluded from any territory that might be subsequently acquired by the United States from the Republic of Mexico.

Sir, permit me to say that upon that occasion that proviso was sustained by a very decided majority of this House. Nay, sir, more; it was sustained, if I mistake not, by a majority of the Republican party on this floor. And I am prepared to show, I think, that the entire South were then willing to acquiesce in what appeared to be, and, so far as the action of this House is concerned, in what was, the legislation, will, and declaration of this Union on the subject. It passed in this House. Sir, there were no threats of disunion sounded in our ears. It passed here, and it went to the Senate, and it was the judgment of the public, and of many men well informed, that, had it not been defeated there for the want of time, it would have passed that body and become the established law of the land.

Sir, the friends of this Administration, of whom I am one, did not then charge upon me, did not throw the whole burden upon me, nor upon those who acted with me, of having, by the introduction and support of that proviso at an untimely period of the question, defeated a measure especially necessary for the establishment of peace between this country and Mexico.

You! no abolitionists were filibustered against me then. I was not then denounced as an abolitionist. And there was then no cry that the Union was to be severed in consequence of the proviso. But I fear that the hostility and the warning of Northern men on this question have induced the South to assume a bolder attitude. Why, sir, in God's name, should the Union be dissolved for this? What do we ask in this matter? We ask but sheer justice and right. Sir, we ask the neutrality of this Government on this question of slavery. I have stood up at home and fought, time and again, against the abolitionists of the North. I stand by every compromise of the Constitution. I adhere to its letter and its spirit. And I would never invade one single right of the South. So far from it am I that I stand ready, at all times and upon all occasions, as do nearly the entire North, to sustain the institutions of the South as they exist, with our money and with our blood, when that day comes, as many—many Southern men—fear it may come. When that day comes, sir, the North stands with them. We go for every compromise of the Constitution.

But, sir, this is another question—entirely another question. We ask that this Government preserve the integrity of free territory against the aggressions of slavery—against its wrongful encroachments. Sir, I was in favor of the annexation of Texas. I supported it with the whole influence which I possessed, and I was willing to take Texas in as she was. I sought not to change the character of her institutions. Texas was a slave country, and, although it was held out to us, that two slaves and two free States might be made out of it, yet the whole of Texas was given up to slavery, every inch. We voted for the annexation of Texas. The Democracy of the North was for it; to a man. We are for it now—firmly for it. Sir, we are fighting this war for Texas, and for the South. But, we are told, California is ours. And all we ask in the North is that the character of its territory be preserved. It is free, and it is part of the established law of nations, and all public law, that, when it shall come into this Union, all laws there existing, not inconsistent with its new allegiance, will remain in force. This fundamental law, which prohibits slavery in California, will be in force; this fundamental law, which prohibits slavery in New Mexico, will be in force. Shall the South invade it? Shall the South make this Government an instrument for the violation of its neutrality, and for the establishment of slavery in these territories, in defiance of law? That is the question. There is no question of abolition here, sir. It

is a question whether the South shall be permitted, by aggression, by invasion of right, by subduing free territory and planting slavery upon it, to wrest this territory to the accomplishment of its own sectional purposes and schemes? That is the question. And shall we of the North submit to it? Must we yield this? It is not, sir, in the spirit of the compact; it is not, sir, in the Constitution.

Mr. JENKINS denounced the war as a presidential war, and a war of conquest, and would vote for this "Wilmot Proviso" as the most effectual means, if carried, of bringing it to a speedy termination. The object of the Administration was to acquire new territory to make it slave territory, and if this prohibition of slavery were imposed by Congress, their warlike spirit would quickly subside.

Mr. BRUCE, of Missouri, said, upon the subject of the "Wilmot Proviso," unlike many gentlemen from the South, he had no fears for the institution of slavery, or for the dissolution of the Union; not from any wilful blindness, but because, after calm reflection, it appeared to him that whenever the governments of this country, either State or Federal, had undertaken to legislate in advance of public opinion, and prescribe rules for public opinion, their enactments were but a dead letter on the statute book. Any legislation at this time, declaring that lands which may hereafter be acquired by the United States shall be occupied by one portion of the country to the exclusion of the other, would be perfectly futile and ineffectual. From the beginning of the Government down to the present day, the North and the South had been advancing with giant and equal stride toward the West, and no arbitrary line could restrain the advances of the institutions of either. The Missouri compromise line had only been acquiesced in by the South because north of that line slavery could not go, from the nature of the case, so as to be for the interest of the people.

But granting that the principles of the amendment could be enforced (in case it were adopted), Mr. B. presented a picture of the blighting influence it would entail upon the South, resulting finally in the extermination of the entire white race in that section; a consequence disastrous in the extreme to the North and all sections of our country.

On the other hand, if this institution were allowed to take its natural course, and to spread southward and westward, by diffusion it would lose its strength, and in the course of a century, he prophesied, its very existence itself. It was already beginning to ebb in the Southern States, he asserted, and white

labor and industry were coming in to take the place of those of the slave.

Mr. HARRISON said that the country was at a crisis. Congress was to decide whether or not the blood and treasure poured out on American soil were for the purpose of establishing slavery upon territory hitherto consecrated to freedom. Gentlemen from the South solemnly warn us that, if we persist in our determination to exclude slavery from the acquired territory, the Union will be dissolved. For his part he preferred to see it rent into a thousand fragments rather than have his country disunited and its moral purity sacrificed by the prosecution of a war for the extension of human bondage.

He welcomed the issue. It had to be met; there would be no compromise between slavery and freedom, any more than between crime and virtue.

He referred at length to the united opposition of Northern men of all parties against prosecuting the war to extend slavery, and predicted that the Administration which was responsible for this policy would be repudiated at the next election.

When we next assemble here the Whigs will probably constitute a majority of this body. Will they, by their votes, increase our national debt, by continuing our conquests in Mexico? Will they send more of our fellow citizens there to be sacrificed to this Moloch of slavery? If so, they, too, will suffer the penalty due to such crimes, and in turn will be driven from power.¹

After an extended reply to the argument that there could rightly be any property in man, Mr. Goldings concluded his speech as follows:

Our political horizon is overcast; "clouds and darkness are round about us"; impenetrable darkness shuts the future from our view. Foreign war and internal strife, animosities and heart burnings, indicate that this nation is doomed to suffer the just penalty incurred by the oppression, outrage, and crime which we have perpetrated upon our fellow men. If God deals out to offending nations retributive justice, we cannot escape His displeasure. Yet, when the just penalty of our transgressions shall have been visited upon us; when thousands more of our brethren shall have fallen victims to this unholy war,

¹The Democrats were defeated the following year. The Whigs took up the war, and carried it on, and were again driven from power, precisely according to this prophecy.

and tens of thousands more, widows and orphans, shall weep and mourn under bereavement; when the immorally brought upon our nation, by this war, shall have tortured the hearts of hundreds of thousands of mothers and wives and daughters, and the righteous punishment for our transgressions shall have been meted out to us; our rulers, our legislators, will acknowledge that "righteousness alone spalleth a nation," while "sin is a reproach to any people."

On February 19, 1847, John C. Calhoun [S. C.] introduced in the Senate resolutions on the subject of slavery in the Territories. In the way of introduction he gave statistics showing that the balance of power was shifting in favor of the free States, and that, unless all the territory about to be acquired from Mexico, including that above the line of the Missouri compromise, were to be left free to introduce slavery, "the Government would be overwhelmingly in the hands of the non-slaveholding States." Thomas H. Benton [Mo.] and Daniel Webster [Mass.] opposed the resolutions.

"LET US BE DONE WITH COMPROMISES!"

HARRISON CALHOUN

Sir, if this state of things is to go on; if this determination, so solemnly made, is to be persisted in—where shall we stand, as far as this Federal Government of ours is concerned? We shall be at the entire mercy of the non-slaveholding States. Can we look to their justice and regard for our interests? Now, I ask, can we rely on that? Ought we to trust our safety and prosperity to their mercy and sense of justice? These are the solemn questions which I put to this and the other side of the chamber.

Sir, what is the entire amount of this policy that there shall be no further addition to the slaveholding States? I will not say that it is designed. I will not say from what cause it originated. I will not say whether blind fanaticism on one side, whether a hostile feeling to slavery entertained by many not fanatic on the other, has produced it; or whether it has been the work of men who, looking to political power, have considered the agitation of this question as the most effectual mode of obtaining the spoils of this Government. I look to the fact itself. It is a policy now openly avowed as one to be persisted

in. It is a scheme, Mr. President, which aims to monopolize the powers of this Government, and to obtain sole possession of its territories.

Now, I ask, is there any remedy? Does the Constitution afford any remedy? And, if not, is there any hope? These, Mr. President, are solemn questions—not only to us, but, let me say to gentlemen from the non-slaveholding States, to them. Sir, the day that the balance between the two sections of the country—the slaveholding States and the non-slaveholding States—is destroyed, is a day that will not be far removed from political revolution, anarchy, civil war, and widespread disaster. The balance of this system is in the slaveholding States. They are the conservative portion—always have been the conservative portion—always will be the conservative portion, and with a due balance on their part may, for generations to come, uphold this glorious Union of ours. But if this scheme should be carried out—if we are to be reduced to a handful—if we are to become a mere ball to play the presidential game with—to count something in the Baltimore caucus—if this is to be the result—woe, woe, I say, to this Union!

How, then, do we stand in reference to this territorial question—this public domain of ours? Why, sir, what is it? It is the common property of the States of this Union. They are called “the Territories of the United States.” And what are the “United States” but the States united? Sir, these Territories are the property of the States united; held jointly for their common use. And is it consistent with justice, is it consistent with equality, that any portion of the partners, outnumbering another portion, shall oust them of this common property of theirs—shall pass any law which shall proscrib the citizens of other portions of the Union from emigrating with their property to the Territories of the United States? Would that be consistent, can it be consistent with the idea of a common property, held jointly for the common benefit of all? Would it be so considered in private life? Would it not be considered the most flagrant outrage in the world, one which any court of equity would restrain by injunction—which any court of law in the world would overrule?

Mr. President, not only is that proposition grossly inconsistent with the Constitution, but the other, which undertakes to say that no State shall be admitted into this Union which shall not prohibit by its constitution the existence of slaves, is equally a great outrage against the Constitution of the United States. Sir, I hold it to be a fundamental principle of our

political system that the people have a right to establish what government they may think proper for themselves; that every State about to become a member of this Union has a right to form its own government as it pleases; and that, in order to be admitted, there is but one qualification, and that is that the government shall be republican. Now, sir, it is proposed, from a vague, indefinite, erroneous, and most dangerous conception of private individual liberty, to overrule this great common liberty which the people have of framing their own constitution! Sir, the right of self-government on the part of individuals is not near so easily to be established by any course of reasoning as the right of a community or State to self-government. And yet, sir, there are men of such delicate feeling on the subject of liberty—men who cannot possibly bear what they call slavery in one section of the country—(although it was not so much slavery as an institution indispensable for the good of both races)—men so squeamish on this point that they are ready to strike down the higher right of a community to govern themselves in order to maintain the absolute right of individuals in every possible condition to govern themselves!

Mr. President, the resolutions that I intend to offer present, in general terms, these great truths. It is due to the States which we represent that there should be a fair expression of what is the sense of this body. Upon that expression much depends. It is the only stand which we can make under the Constitution. It is the only position we can take that will uphold us with anything like independence—which will give us any chance at all to maintain an equality in this Union, on those great principles to which I have referred. Overrule these principles, and we are nothing! Preserve them, and we will ever be a respectable portion of the Union.

Sir, here let me say a word as to the compromise line. I have always considered it as a great error—highly injurious to the South, because it surrendered, for mere temporary purposes, those high principles of the Constitution upon which I think we ought to stand. I am against any compromise line.

I see my way in the Constitution. I cannot in a compromise. A compromise is but an act of Congress. It may be overruled at any time. It gives us no security. But the Constitution is stable. It is a rock. On it we can stand. It is a firm and stable ground, on which we can better stand in opposition to fanaticism than on the shifting sands of compromise,

Let us be done with compromises. Let us go back and stand upon the Constitution!

Well, sir, what if the decision of this body shall deny to us this high constitutional right, not the less clear because deduced from the whole body of the instrument and the nature of the subject to which it relates? What, then, is the question? I will not undertake to decide. It is a question for our constituents—the slaveholding States. A solemn and a great question. If the decision should be adverse, I trust and do believe that they will take under solemn consideration what they ought to do. I give no advice. It would be hazardous and dangerous for me to do so. But I may speak as an individual member of that section of the Union. There I drew my first breath. There are all my hopes. There are my family and connections. I am a planter—a cotton planter. I am a Southern man and a slaveholder; a kind and a merciful one, I trust—and none the worse for being a slaveholder. I say, for one, I would rather meet any extremity upon earth than give up one inch of our equality—one inch of what belongs to us as members of this great republic. What! acknowledge inferiority! The surrender of life is nothing to sinking down into acknowledgment of inferiority.

I have examined this subject largely—widely. I think I see the future if we do not stand up as we ought. In my humble opinion, in that case, the condition of Ireland is prosperous and happy—the condition of Hindustan is prosperous and happy—the condition of Jamaica is prosperous and happy, to what the Southern States will be if they should not now stand up manfully in defence of their rights.

Mr. President, I desire that the resolutions which I now send to the table be read.

The resolutions were read as follows:

Resolved, That the Territories of the United States belong to the several States composing this Union, and are held by them as their joint and common property.

Resolved, That Congress, as the joint agent and representative of the States of this Union, has no right to make any law, or do any act whatsoever, that shall directly, or by its effects, make any discrimination between the States of this Union, by which any of them shall be deprived of its full and equal right in any Territory of the United States, acquired or to be acquired.

Resolved, That the enactment of any law which should directly, or by its effects, deprive the citizens of any of the States of this Union from emigrating, with their property, into any of the Territories of the United States, will make such discrimination, and would, therefore, be a violation of the Constitution, and the rights of the States from which such citizens

emigrated, and in derogation of that perfect equality which belongs to them as members of this Union, and would tend directly to subvert the Union itself.

Resolved, That it is a fundamental principle in our political creed that a people, in forming a constitution, have the unconditional right to form and adopt the government which they may think best calculated to secure their liberty, prosperity, and happiness; and that, in conformity thereto, no other condition is imposed by the Federal Constitution on a State, in order to be admitted into this Union, except that its constitution shall be republican; and that the imposition of any other by Congress would not only be in violation of the Constitution, but in direct conflict with the principle on which our political system rests.

SENATOR BENTON.—Mr. President, there is something yet to be done to give effect to the ten regiment bill, and other important measures require our attention. Now, if anybody thinks that I am going to lay aside the necessary business of the session to vote on such a string of abstractions, he is greatly mistaken.

SENATOR CALHOUN.—The Senator says he cannot take up abstractions. The Constitution is an abstraction. Property is an abstraction. All the great rules of life are abstractions. The Declaration of Independence was made on an abstraction; and when I hear a man declare that he is against abstract truth in a case of this kind I am prepared to know what his course will be! I certainly supposed that the Senator from Missouri, the representative of a slaveholding State, would have supported these resolutions. I moved them in good faith, under a solemn conviction of what was due to those whom I represent, and due the whole South and the whole Union. I have as little desire as any Senator to obstruct public business. All I want is a decision, and a decision before the three million bill is decided.

SENATOR BENTON.—The Senator from South Carolina says he calculated on my support. He is mistaken. He knows very well from my whole course in public life that I never would leave public business to take up firebrands to set the world on fire.

SENATOR CALHOUN.—The Senator does not at all comprehend me. I expressed a hope that he would be found ready to support the principles presented in my resolutions.

SENATOR BENTON.—I shall be found in the right place. I am on the side of my country and the Union.

WEBSTER observed that, should the resolutions of the Senator from South Carolina be taken up, he (Mr. Webster) should follow the example thus set him, and call up his own as follows:

Resolved, That the war now existing with Mexico might not be prematurely terminated for the acquisition of territory to form new States to be admitted into the Union.

Resolved, That it ought to be objected to the Government of Mexico, that the Government of the United States does not desire to recognize the Republic of Mexico, and is ready to treat with the Government of that republic for peace, for a blood adjustment of boundaries, and for just indemnities due by either Government to the citizens of the other.

Mr. Calhoun never called for the consideration of his resolutions, consequently Mr. Webster never called up his, nor was any further notice of either taken in the Senate.

In his "Thirty Years' View" (1856) Senator Benton thus comments on Calhoun's resolutions:

THE FIREBRAND RESOLUTIONS OF SENATOR CALHOUN

MISSOURI DEBATE

The resolutions were sent out to all the slave States, and adopted by some of them; and there commenced the great slavery agitation, founded upon the dogma of "no power in Congress to legislate upon slavery in the territories," which has led to the abrogation of the Missouri compromise line—which has filled the Union with distraction—and which is threatening to bring all Federal legislation, and all Federal elections, to a mere sectional struggle, in which one-half of the States is to be arrayed against the other. The resolves were evidently introduced for the mere purpose of carrying a question to the slave States on which they could be formed into a unit against the free States; and they answered that purpose as well as rejection by the Senate as with it, and were accordingly used in conformity to their design without any such rejection, which it cannot be repeated too often—could in no way have decided the constitutional question which they presented.

There were new resolutions—the first of their kind in the (United) sixty years' existence of the Federal Government—contrary to its practice during that time contrary to Mr. Calhoun's slavery resolutions of 1838—contrary to his early and long support of the Missouri compromise—and contrary to the re-enactment of that line by the authors of the Texas annexation law. That re-enactment had taken place only two years before, and was in the very words of the anti-slavery action of '47, and of the Missouri compromise prohibition of 1820, and was voted for by the whole body of the unionists, and was

not only considered and supported by Mr. Calhoun, then Secretary of State, but carried into effect by him in the dispatch of that messenger to Texas in the expiring moments of his power.

The words of the re-enactment were: "And in such States or States as shall be formed out of said territory north of the said Missouri's compromise line, slavery or involuntary servitude (except for crime) shall be prohibited." This clause established that compromise line in all that long extent of it, which was added to Spain by the treaty of 1819, which became Texas by her separation from Mexico, and which became slave soil under her laws and constitution. So that, up to the third day of March, in the year 1845—not quite two years before the date of those resolutions—Mr. Calhoun, by authentic acts, and the two Houses of Congress, by recorded votes, and President Tyler, by his approving signature, acknowledged the power of Congress to prohibit slavery in a territory; and not only acknowledged the power, but exercised it and actually prohibited slavery in a long strip of country, enough to make a "State or States," where it then legally existed.

Those resolutions of 1847, called firebrand at the time, were further characterized as nullification a few days afterwards, when Mr. Benton said of them, that, "as Nullity was in the young Texas many Mexicans, so did he see in them many nullifications."

On July 13, 1848, after the treaty of peace with Mexico the Senate elected a committee to frame a bill for the territorial governments of Oregon, California, and New Mexico. John M. Clayton [Del.] was chairman of the committee.

On July 14 this committee reported its bill—the provisions of which will transpire in the course of the debate which thereupon ensued.

The chief speakers in favor of the bill were Clayton, John H. Clarke [H. L.], Sydney Breese [H. L.], Samuel H. Phelps [V. L.], Edward A. Hannagan [Ind.], Andrew P. Butler [N. C.], Henry B. Foote [Miss.], Alfred Iverson [Ga.], and Beverly Johnson [Md.]; and the chief speakers who opposed it were Jacob W. Miller [N. J.], Thomas Fitzgerald [Mich.], Thomas Corwin [O.], Joseph H. Underwood [Ky.], George F. Badger [N. C.], and John A. Dix [N. Y.].

IV—10

TERRITORIAL ORGANIZATION OF OREGON, CALIFORNIA AND NEW MEXICO

SENATE, JULY 12, 1848

SENATOR CLAYTON said that he felt it due, in justice to each and every one of his colleagues, to say that, amid all these long conferences and laborious discussions on the various topics necessarily considered by them, the most considerate spirit had been evinced by them, each endeavoring to maintain the honor and interest, not merely of his own section of country, but that of the whole nation, and each endeavoring to yield so much as he felt could be properly and honorably conceded, without the sacrifice of what was essentially due to his own constituents, and the people of all the States. After a full interchange of views, a vote was taken on a proposition moved by the Senator from Missouri [David R. Atchison], "that the spirit of the Missouri compromise be adopted to govern the settlement of all the Territories of the United States." On this question the committee divided, five for and three against the motion. As the condition of the territory was now said to be different from that to which that compromise applied in 1820, a motion was made by the Senator from Kentucky [Mr. Underwood] to amend that proposition, by providing that "all the territory in New Mexico and California, south of the parallel of 36° 30', shall be placed on the same footing in all respects as to slavery that existed in Louisiana while it was a Territory." On this question the committee divided, four for the motion and four against it.

At this stage of the proceedings all compromise appeared to be impossible. But the committee proceeded afterwards to consider a proposition to endeavor to adjust the great question, at least so far as to enable Congress to extend the laws over and provide for the administration of justice in the territories, leaving for the present the settlement of it to the laws of population, or the adaptation of soil, climate, and all circumstances to the various kinds of labor. While it was admitted on all sides that by far the greatest portion of the Territories was properly adapted to free labor, and would necessarily be free soil forever, yet it was also with equal unanimity conceded that there was a portion of it where free labor never could be introduced, owing to the climate and the peculiar productions of that portion. It was thought that if Oregon, which no one thought can ever be slaveholding, could be

organized as the people of that Territory desired, by the temporary adoption of their present laws interdicting or prohibiting slavery till the territorial legislature proposed to be organized, by a popular vote, under the bill referred to us, could enact some law on the subject, most of the objections would be obviated, without any sacrifice of principle by those who urged them, and that, after thus disposing of the question, so far as relates to Oregon, the Territories of California and New Mexico could be organized in the same bill by the appointment of a governor, secretary, and judges, to compose, according to the old precedents, a temporary legislature for each of those Territories, but without the power to legislate on the subject of slavery, thus placing that question beyond the power of the territorial legislatures, and reserving the right to introduce or prohibit slavery in those two Territories on the Constitution, as the same should be expounded by the judges, with a right of appeal to the Supreme Court of the United States. It was thought that by this means Congress would avoid the decision of this distracting question, leaving it to be settled by the silent operation of the Constitution itself; and that, in case Congress should refuse to touch the subject, the country would be slaveholding only where, by the laws of nature, slave labor was effective and free labor could not maintain itself. On the other hand, in case Congress should hereafter choose to adopt the compromise line of 36° 30' (north of which, I suppose, it is not expected that slave labor can be introduced), or any other rule of settlement, it will be free to act as to its wisdom and patriotism shall seem fit.

After many conflicts of opinion these views thus generally expressed were substantially agreed upon with great unanimity.

Senator Clayton continued:

I do not expect, sir, that this or any other proposition which the wit of man can possibly suggest will prevent agitation on this subject, which is now daily spreading through the country, and, I fear, dividing it into geographical parties. If the Missouri compromise of 36° 30' should be adopted, the agitators would immediately raise the standard of repeal and agitate as fiercely as ever. They will agitate after the passage of any bill. But this bill resolves the whole question between the North and South into a constitutional and a judicial question. It asks of men of all sections only to stand by the Constitution, and suffer that to settle the difference by its own tranquil operation. If the Constitution settles the question either way, let those who rail at the decision vent their indignation against their ancestors

who adopted it. We offer no bill to introduce slavery by congressional enactment into any free territory. If, as the South contends, the Constitution gives the right to carry their slaves there, they will maintain that right. If, as the North contends, the Constitution confers no such right, they will vindicate their claim. It is the honest opinion of a large majority of the committee that by the passage of this bill the safety of the Union will be placed beyond the reach of agitation, and that the question, and the only question, which now threatens to endanger it may be, not immediately, but ultimately, put at rest forever.

SENATOR CHAMBERLAIN stated that the bill now reported received the sanction of six out of the eight members of the committee, two of the members (of whom he was one) objecting to it. His views and the views of his State (Rhode Island) were decidedly against the introduction of slavery into a free State, and against the extension of slavery to any territory which we may have acquired by conquest. He intended to move again in the Senate the amendment which he had unsuccessfully proposed in committee. As far as he understood the opinion of the committee, it was that the Territory of Oregon was in every sense a free Territory. On looking over the bill, he found that this principle did not seem to be sufficiently carried out in the construction of the bill. He stated that it was his intention to move an amendment to the sixth section of the bill, the closing paragraph in: "All the laws passed by the legislative assembly shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect." To this he moved to add a proviso, that no law on the subject of slavery shall be in force until it shall have received the approval of Congress.

It was urged in committee that, on the Territories of California and New Mexico coming into the possession of the United States, every owner of a slave would have a right to bring his property into the Territories. To this it was objected that, this being a constitutional question, it should be referred to the supreme court of the Territory, with an appeal to the Supreme Court of the United States. To this effect he also proposed to submit an amendment.

SENATOR MILLER referred to the debate which had already taken place, on the power of Congress to abolish slavery, in which it was strenuously denied by the Senators from the Southern States; yet, in this bill there was an assumption of the power, in the clause prohibiting the passage of any law which abolishes slavery. Believing in this power, he was not

opposed to its exercise, but he was opposed to its admission for the benefit of one part of the Union, and not of the other. He had prepared an amendment providing that the laws now in existence in the Territories shall continue in force. As to the prohibition of the territorial legislatures in Mexico to pass any laws respecting slavery, what did it mean but a prohibition of the passing of any laws abolishing slavery? Slavery would then, of course, go to California and New Mexico, as there is no law there to prevent it. If a person takes his slave there, and his property is taken, and he appeals to the Supreme Court, the court will probably decide that, as Congress has passed no law prohibiting slavery there, slavery may exist there. And while the question remains undecided, the slave will stand on the same footing with his master—under the protection of the Constitution—and absolute bloodshed may ensue. He alluded to the difficulty which would stand in the way of any slave who desired to bring his case, by a writ of *habeas corpus*, before a judicial tribunal for decision; he illustrated this by the case of the agent of the State of Massachusetts, Mr. Samuel May, who was sent to Charleston, South Carolina, for the purpose of testing the constitutionality of the law where he could have no lawyer to aid him, and was himself imprisoned, and then compelled to leave the State.

SENATOR HUNTER: If the Senator from New Jersey will allow me, I will ask him if the question of servitude could not be brought before the Supreme Court of the United States, very readily, by an action, by the slave, of assault and battery and false imprisonment? Such a suit would bring up the question fairly, and without the intervention of a jury. The person claimed as a slave brings his action, and there never has been found any difficulty in obtaining the aid of counsel, even in slave States, for such purpose. The master pleads to the action that *terro* it is he holds the plaintiff in his custody, as he has a right to do, for he is his slave. The slave replies, setting forth the fact that California, on itscession to the United States, was free; that slavery did not exist there, and that it is not recognized by the Constitution of the United States or any act of Congress, and that by virtue of that Constitution he is free. The defendant denies, and the question of law arising thereon is decided by the court, and, if the decision be *against* the slave, the Supreme Court of the United States have jurisdiction under the 25th section of the Judiciary Act of 1789, because a decision has been pronounced against a right claimed under the Constitution. [Monroe *vs.* Apsado, in 5th Peters' Rep.]

SENATOR MILLER resumed. He was willing to vote for a bill which prohibited slavery in any Territory which was free at the time of the passage of the bill. If slavery existed in a Territory at the time of its acquisition by the United States, he would leave it to the people to determine whether it should continue. He would not vote for its abolition there. He had not voted against the continuance of slavery when Texas was admitted into the Union, because it had previously been in existence there. For whose benefit should we now extend slavery in California and New Mexico, where it has already been abolished? Great Britain had introduced slavery in this country, and what was the general tone of public opinion on this subject? Was it not termed a curse which had been entailed on us by Great Britain? And shall we extend this curse to the Territories over which we extend our protection?

The South asserted that it had a greater interest in the question than the North. This he denied. He denied that the South had any exclusive privileges to carry her slaves to the Territories for sale. The North had an equal right to enjoy the profit of such a traffic, and had therefore as great an interest in the question as the South. Slavery does not exist now on the Pacific, and by his vote it should never be permitted there.

The proper way to settle the question was by the legislative authority. The people would not rebel against the law, and he was not disposed to surrender the power of Congress over the subject.

SENATOR PIERCE. What was the condition in which California and New Mexico have come under our care? Slavery has been abolished there. Such is the state in which we receive them. By the laws of nations, the laws of all conquered countries remain until changed by the conqueror. If those laws are to be retained, there is an express law constituting a prohibition of slavery, and this will continue until we shall change it. He insisted that there was nothing in the bill to warrant the belief that it could ever carry slavery into those territories. If there was cowardice in the bill, he had no fear on the subject. He would rather attach the term to the weathercock of popular impulse, to him who fears to do a wise act, but he should offend none transient caprice. If there were any to whom responsibility should attach, it was to those who voted for the annexation of Texas, out of which grew the Mexican war. The Senator from Connecticut [Mr. Niles] had given the casting vote on the question of the annexation of Texas, and he was responsible for

all the difficulties which had grown out of it. That Senator had thrown the most offensive epithets on this bill and its originators, and he was bound to come forward and aid in a compromise. If the old coat and jacket of anyone are to be stuffed with straw and burnt in effigy, they should be those of the Senator from Connecticut rather than mine.

SENATOR FERGUSON had strong objections to parts of the bill, yet if he thought it would produce harmony and peace he would vote for it, although it would be his last act, and he should thereafter be plunged in disgrace. But he feared, from what he had heard, that his friends were doomed to disappointment. There was a political storm enging in the North, the effects of which no one could foresee. It threatened to come upon us like a whirlwind, and who can tell where it may be stayed? He alone was responsible for his own acts. He would give another reason why he voted against the raising of the committee. He was not in very good humor at that time, because he had heard imputations thrown on Northern States, and, among others, upon the State represented by him, on the subject of fugitive slaves.

SENATOR CORWIN said that it was fitting that slavery should follow conquest—the law in both cases is simply the law of force. Slavery had its origin in capture.

As in the case of *lands* acquired by conquest, long possession and continued acquiescence (in the judgments of men) ripen the claim into legal right, so, in the case of legal slavery, the captive, originally held only by force, in time, by the law of men, and by the judgment of men, becomes *property*!! And we are told by the Senator from Virginia [Mr. Mason] that the posterity of such become properly only through the magical influence of those words, Roman words: "*Pactus acquiritur servituti*."—"The child follows the condition of its mother." Admirable—philosophical—rational—Christian—maxim!!! If the mother be captured in war, it seems then the will of a just God, "whose tender mercies are over all his works," that her offspring to the remotest time shall be doomed to slavery. What sublime morality, what lovely justice combine to sanctify this article in that new doctrine of freedom which we say it is our destiny to give to the world! All over the world the air is vocal with the shouts of men made free. Bivvy gale that blows across the Atlantic comes freighted with the death groans of a king; every vessel that touches your shores bears with her tidings that the captives of the Old World are at last be-

coming free—that they are seeking, through blood and slaughter—blindly and madly, it may be—but nevertheless resolutely—deliverance from the fetters that have held them in bondage. What does it all mean? It means that they have been redeemed from *political* servitude; and in God's name I ask, if it be a boon to mankind to be free from political servitude, must it not be accepted as a matter of some gratulation that they have been relieved from personal servitude—absolute subjection to the arbitrary power of others?

According to the doctrine preached in these halls—in free America—instead of sending shouts of gratulation across the water to these people, we should send to them groans and commiseration for their folly, calling on them to beware how they take this business into their own hands—informing them that universal liberty is a curse; that, as one man is born with a right to govern an empire, he and his posterity must continue to exercise that power, because in this case it is not exactly *partus sequitur ventrem*, but *partus sequitur patrem*—that is all the difference. The crown follows the father! Under your law the chain follows the mother!

Senator Corwin then reverted to the American Revolution.

The men of 1776 did not believe that one man was born “booted and spurred” to ride another. And, if, as they said, no man was born to *rule* another, did it not follow that no man could rightfully be born to *serve* another? Sir, in those days, Virginia and Virginia's sons, Washington and Jefferson, had as little respect for that maxim, *partus sequitur ventrem*, as for that other cognate dogma, “Kings are born to rule.”

Mr. President, these men, when they spoke of slavery and its extension, did not get up some hybrid sort of “compromise” and consult some supreme court. They declared slavery an evil, a wrong, a prejudice to free colonies, a social mischief, and a political evil; and, if these were denied, they replied, “These truths are self-evident.” And from the judgments of men they appealed to no earthly court; they took an appeal “to the Supreme Judge of the World.” When I am asked to extend to this new empire of ours, now in its infancy, an institution which they pronounced an evil to all communities; when I refuse to agree with some here whose judgments I revere, and whose motives I know to be pure, I can only say I stand where our fathers stood of old, I am sustained in my position by the

that a curious commentary upon that wonderful thing called human reason?

SENATOR UNDERWOOD.—It is regulated by a line!

SENATOR CORWIN.—Yes, by 36° 30', and what is black on one side of the line is white on the other, turning to jet black again when restored to its original locality. How is that? Can I have confidence in the Supreme Court of the United States, when my confidence fails in Senators around me?

I recollect very well when we did not stop to inquire how the Supreme Court had decided or ordained. It had decided, with John Marshall at its head—a man whose lightest conjectures upon the subject of constitutional law have always had with me as much weight as the well-considered opinion of almost any other man—that Congress had power to establish just such a bank as you had;¹ but with what infinite scorn did Democratic gentlemen—Jackson Democrats as they chose to be called—curl their lips when referred to that decision of the Supreme Court. Then the cry was, “We are judges for ourselves; we make no law unless we have the power to enact it.” Now, however, the doctrine is that here is one only tribunal competent to put the matter at rest forever.

Senator Corwin criticized the impracticability and injustice of the method of getting a decision of the Supreme Court as laid down in the bill. To test the law a man must go to California with his slaves. “I do not know how it may be in other parts of the world,” said Senator Corwin, “but in the State of Ohio we do not travel three thousand miles to get justice.”

Sir, this bill seems to me a rich and rare legislative curiosity. It does not enact “a law,” which I had supposed the usual function of legislation. No, sir; it only enacts “a law-suit.” So we virtually enact that, when the Supreme Court say we can make law, then we have made it!

In the meantime, said the Senator, while the case is under consideration in the Supreme Court, slavery will have taken root and appeal will be made by the advocates of slavery against interference with vested property interests.

The greatest absurdity in the bill, however, was that,

¹ See Vol. XIII, chapter iv.

men who founded the first system of rational liberty on earth. I ask any Southern man, if there were not a slave on this continent, would you send your ships to Africa and bring them here? If you would not bring them from the shores of Africa—buying them with some imagined “*partus sequitur ventrem*” branded on them somewhere—how can you prove to me that it would be right to transfer them from Maryland or Virginia, three thousand miles, to the shores of the Pacific? If slavery were a curse to you in the beginning, but struck its roots so deep into your social and municipal system, as was then said, that it could not be eradicated entirely, how is it that you call upon me, as a matter of conscience and duty, to transfer this curse to an area of square miles greatly exceeding that of the thirteen States when the Confederation was formed? Is it true that I am obliged to receive into my family a man with the smallpox or the leprosy, that they may be infected? But the gentleman from Virginia has said that it must be done. Why? Because it is compassion to the slave. He can not be nurtured in Virginia; your lands are worn out. Sir, that statement sounded ominous in my ears. It gave rise to some reflection. Why are your lands worn out? Are the lands of Pennsylvania worn out? Are those of Connecticut worn out? Is not Massachusetts more productive to-day than when the foot of the white man was first impressed upon her soil? Your lands are worn out, because the slave has turned pale the land wherever he has set down his black foot! It is slave labor that has done all this. And must we then extend to these Territories that which produces sterility wherever it is found, till barren desolation shall cover the whole land? If you can call upon me, as a matter of compassion, to send the slave to California or Oregon, you can call upon me by the same sacred obligation to receive him into Ohio as a slave, and I would be just as much bound, as a citizen of Ohio, to say that the Constitution should be so construed as to admit slaves there, because they have made the land in Virginia barren, and they and their masters were perishing, till Ohio had also become a wilderness.

It is a sad commentary upon the perfection of human reason that, with but a very few exceptions, all eminent lawyers on this floor from the South have argued that you have no right to prohibit the introduction of slavery into Oregon, California, and New Mexico; while, on the other hand, there is not a man in the free States, learned or unlearned, clerical or lay, who has any pretensions to legal knowledge, but believes in his conscience that you have a right to prohibit slavery. Is not

as in all cases before the Supreme Court, the appellant must give bond to twice the value of the property in dispute; in this case a negro must give bonds to twice the value of himself!

Under this complexity of legal quibbling and litigation, it is expected that the negro will stand before the bar and contend with his master, and, coming on to Washington, will prosecute his appeal two years before the Supreme Court, enjoying the opportunity of visiting his old friends about Baltimore!

SENATOR UNDERWOOD regarded it as our true policy to let slavery alone. Climate and population are continuing to drive slavery further and further to the South, to the latitude where free labor could not flourish. He read a number of extracts from a pamphlet in his hands, showing that in the first stage after the introduction of slavery the increase of slaves is great; in the second stage, the white population increases in an equal ratio with the slaves; and, in the third stage, the slave race diminishes rapidly.

SENATOR BUTLER said the discussion had worn a calm and temperate character until yesterday, when the Senator from Ohio [Mr. Corwin] poured forth from his full mind arguments and statements which had forever banished from his breast the hope of a successful termination of the efforts at compromise.

If it was a question how much the non-slaveholding States had gained from the labor of the slaveholding States, the figures of rhetoric would soon give way before the figures of arithmetic. If the forefathers of the South, when they gave their consent to the Constitution, had supposed that they were giving to the North authority for the unlimited expansion of their political power, while they were imposing on the South the Procrustean process, by which she was always to be clipped and kept within narrow fetters, would they have ever given their consent to the instrument?

He commented severely on the course of the Eastern States in refusing to give up the fugitive slaves from the South.

He was not disposed to indulge in declamation. He had admired the oratory of the Senator from Ohio, which he characterized as equally beautiful and *ad captandum*,¹ but he charged that the love of power was at the bottom of it. He ridiculed the moral tone of the Senator's speech, and related an anecdote of a party of clergymen at a religious revival, who were called to dine on venison, when, after the blessing had been asked,

¹ “Playing to the galleries.”

one whispered to the clergyman that Pequod had killed the deer on Sunday. What was to be done? The minister told his brethren that the venison had been killed on Sunday. Could they eat it? Why, you have asked a blessing, I believe! Yes. Well, then, that will partly consecrate the venison; so we may eat the meat, and then give Pequod thirty-nine lashes. This was morality! and such was the morality of the North in its treatment of the South.

SENATOR FOOTE feared that the decision of the Supreme Bench, as that court is now constituted, would be against the South. And then, said he, where are we? He laid it down that the Northern men were the shrewdest men in the Union. He had traveled over every part of the Union to the Rio Grande, and had found Yankees everywhere; and he had never found one who was not anxious to own a slave. And they were the most rigid of masters—they were masters indeed. As soon as a Yankee could command four hundred dollars he laid it out in a slave, because in a cotton-growing country he knew that a slave was the most valuable property he could possess. He admired the Yankees very much. He had never desired to hang them all. And if he had, as had been charged against him, ever used such an expression in the heat of the moment, he would now retract it. He was perfectly satisfied that the Yankees would never vote for the abolition of slavery if they could gain any profit by continuing it.

SENATOR IVERSON spoke on the general subject of slavery, alleging the insecurity of trusting to Northern compromises, contending that both the Whig candidates¹ were unsound on this question, and arguing the hopelessness of the cause of the South in the event of their success.

Senator Johnson defended the Supreme Court against the charges of the Senator from Ohio [Mr. Corwin].

While statesmen, politicians, were found differing on a subject, the Supreme Court was unanimous. On the question of the constitutionality of the United States Bank, while Congress was deciding one way, the court was unanimously the other way. The members of the Supreme Court were not politicians. They were born in a different atmosphere, and they addressed themselves to different hearers. Politicians were always differing and disputing—one taking this side of a question, and another

¹ General Zachary Taylor [La.] and Millard Fillmore [N. Y.].

not willing to leave the decision of the question to a court, so large a portion of which were opposed to slavery.

Mr. Dix defended the State of New York against the charge of refusing to surrender fugitives from justice, claimed under requisition from the State of Virginia. He alleged that this was not the act of the State, but of the governor. He read the resolutions adopted by the legislature, of which he was a member, which condemned the course of the governor.

The bill was adopted in the Senate on July 26 by a vote of 33 to 22. It then went to the House, where, on motion of Alexander H. Stephens [Ga.] it was laid on the table by a vote of 112 to 97, 8 Southern Whigs and 31 Northern Democrats voting with all the Northern Whigs in the affirmative. The charge was made by some of the Democrats that these Southern Whigs were acting in the interest rather of their party than of their section, but this Mr. Stephens repelled, saying that the Supreme Court, to whom the bill left the decision, was certain to pronounce against the claim that slavery was allowable in the Territories solely by virtue of the Constitution; he cited many opinions of the Court,¹ showing that it had repeatedly upheld this view, namely, that "the Constitution recognizes and guarantees slavery wherever it exists by local law, but establishes it nowhere where it is prohibited by law."

In lieu of the bill Stephens urged that the Southern Representatives refuse to make any appropriations for carrying out the treaty with Mexico until the rights of the South in regard to taking their slaves into the Territories had been secured.

The House having tabled the Senate bill proceeded to organize a territorial government for Oregon alone. A bill to this effect incorporating the prohibition of slavery as set forth in the Ordinance of 1787 was passed on August 2, 1848, by a vote of 129 to 71.

On August 3 the House bill came before the Senate. It was debated until August 10, when it was passed with an amendment offered by Stephen A. Douglas [Ill.],

¹ Wheaton's Rep., VIII, p. 589; XII, pp. 528-535; Peters' Rep., I, pp. 617, 642, 644, VI, p. 712; VII, pp. 86, 87; VIII, pp. 444, 465; IX, pp. 133, 736, 747-749; X, pp. 305, 330, 721, 732; XII, p. 412.

taking an opposite view, all equally honest. How desirable, then, in a case of such importance as this, to call in a third party, rather than that we should be driven to despair—above all, to bloodshed.

He was not the advocate of slavery itself; he never had been so. He would rejoice to see the institution at an end, and it was with sincere regret he admitted that it was the agitation which had been stirred up in the North which had alone prevented the friends of freedom from emancipating the slaves in Maryland. He alluded to Connecticut, from which State the compromise was opposed as having scarcely become a free State, and to Ohio, where free negroes were treated as slaves.¹

The Senator from Ohio had complained that California was three thousand miles from Washington, and no slave could find means to employ a lawyer to carry up his case. He would reply to this that there could not be found in the whole Southern bar a lawyer who would not gratuitously give his services to a black man, to free him from slavery, where there was a reasonable ground for the application. He also referred to the readiness of judges to decide in favor of the slave. And he believed that, if this bill should pass, there would be always found at the Southern bar members who would be ready to sue out the freedom of slaves who were entitled to it. The question whether a slave owner is entitled to carry his slaves into the territory will be decided on the first appeal, and that will decide the matter in every future case which can arise. The question rises above party and sectional considerations. It assumes the character and dignity and importance of a national one.

SENATOR BADGER regarded this bill as a complete surrender of the rights of the South. Among the powers granted to Congress by the Constitution, he included that of governing the territory ceded to the nation. That power included either the introduction or the abolition of slavery in the territories ceded to us. The power of acquiring territory has been sustained by the decision of the Supreme Court, and the acquisition of territory carries with it the power to govern the territory, and the power to govern includes the power to regulate slavery.

He believed negro slavery would be as effectually excluded by this bill as if the Wilmot proviso, or any other bill, had passed. He had a respect for the Supreme Court, but he was

¹ The repressive "black laws" of Ohio were wiped out by the legislature in the course of the following year.

by a vote of 33 to 21. On the following day the House refused to concur in the amendment, and the Senate, on August 12, accepted the House bill intact by a vote of 29 to 25. The reason for this acceptance was the nomination at Buffalo, N. Y., on August 9 of Free Soil candidates for President and Vice-President, Martin Van Buren [N. Y.] and Charles Francis Adams [Mass.] pledged against the extension of slavery into any of the Territories, California and New Mexico, as well as into Oregon. The Liberty party was now merged with the Free Soil party.

On the debates in the Senate the following were the chief speakers: pro-slavery, James M. Mason [Va.], Andrew P. Butler [S. C.], John C. Calhoun [S. C.], John Bell [Tenn.], General Samuel Houston [Tex.] and W. Johnson [Ga.]; anti-slavery, William L. Dayton [N. J.], Daniel Webster [Mass.] and John M. Niles [Conn.].

THE OREGON BILL

SENATE, AUGUST 3-12, 1848

SENATOR MASON attributed to the committee the design to evade the slavery question. He referred to the convention about to be assembled at Buffalo, for the choice of a standard-bearer. But one god was to be worshiped there, and that god was power—the power to trample down the Constitution of the country. He referred to the recent decision of Virginia not to regard any law of the United States which should prevent her citizens from carrying their slaves into any of the Territories. He and his constituents were willing to be bound by the principle of the compromise, but it was not to be expected that they would go one single step beyond it. It would be to expect them to submit to insult.

SENATOR DAYTON replied, to the threats held out by the Senator from Virginia, that if she was to be forced another step, she would proclaim nullification. He repudiated for the Whig party this question as the great issue to be tried at the coming election. The questions of free soil and slavery were not the great questions of the Whig party. They constituted too narrow a ledge for that party to stand on. Nor would it be generally understood that this was the great issue with the Democratic party.

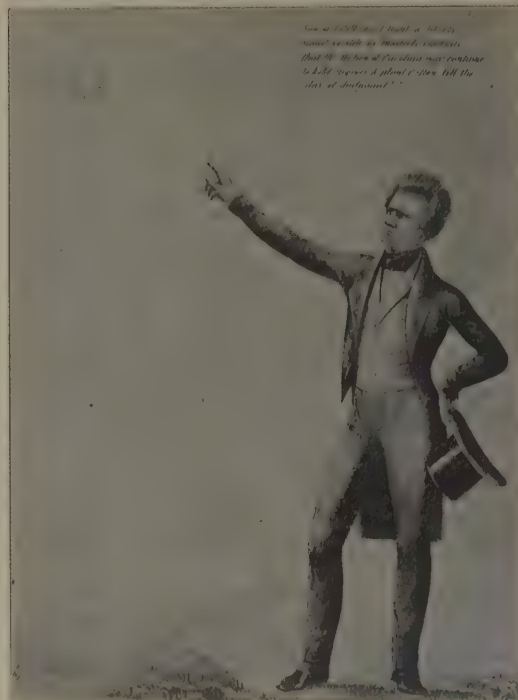
SENATOR WEBSTER said that his objection to slavery was irrespective of lines and points of latitude; it took in the whole country, and the whole question. He was opposed to it in every shape, and in every qualification, and was against any compromise of the question.

As to California and New Mexico, he said it was easy to foresee to what the acquisition of this territory would lead. He congratulated himself that he had taken no part in the late war, except to oppose its commencement with all his might, and at the close to oppose the treaty with all his might. He believed the war itself to be a calamity, and he greatly feared that the treaty would turn out to be the most permanent calamity.

SENATOR BUTLER disapproved of this policy of giving especial protection to the Territories north of the Missouri line of compromise, and giving to the North all that valuable portion of the Union. The resolutions of the State of Virginia, which were referred to the other day by a Senator from that State [Mr. Mason], had been responded to by all the Southern States of the Union. He would tell the Senate that his advice to his constituents would be to go to these new Territories with arms in their hands; to go as armed communities and take possession of the lands which they had helped to acquire and see who would attempt to dispossess them. Would the military force of the United States shoot down the plowman at his plow? So help him God, he would so advise his constituents, to take with them their property there, and settle at all hazards. The subtleties and sophisms of the laws of nations would be feeble barriers to the spirit which would show itself in the South. Times and circumstances had changed the character of this bill for the establishment of a Territory in Oregon from what it was two years ago. Then it was comparatively innocent; now he regarded it as a masked battery, from behind which the institutions of the South were to be assailed with a firm determination to subvert them. The South would not fear a contest. She was ready to meet her opponents in a fair and open manner, but she would rise indignant against these covert attacks. He was ready to embark in the boat with his State, and to trust it to the care of Heaven.

SENATOR CALHOUN referred to the insurrection of the slaves in the West India Islands; and the same spirit, though suppressed, exists here. He dreaded the result which would follow if the same spirit which now animated the North should continue to grow and spread. He referred to the positions taken by the South and the North on the slave question. The latter

had been unable to meet the arguments of the Southern Senators, and turned out of the direct course to discuss the question of the extension of territory, which was not connected with the subject, and was not advocated by a single Representative from his State. He would now tell the people of the South that they



JOSHUA [CALHOUN] COMMANDING THE SUN [THE PRESS] TO STAND STILL [1848]

From the collection of the New York Historical Society

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can never settle this question until they take it into their own hands. He admitted that the South was poor in comparison with the North. Slavery had benefited all mankind—all countries but the South. Slavery, like the waters of the Nile, had spread its fertilizing influence over all the world. It had benefited all but the Southern planter, who had been the tutor, the friend, as well as the master, of the slave, and had raised him up to civilization.

SENATOR NILES said that the movement of the North was forced upon them by the Southern attempt to mix up this slavery question with the politics of the country. It had been given out by the South that no candidate for the Presidency should be supported there who did not pledge himself against the Wilmot proviso. Now, when this course was taken it was incumbent on the North to make a countervailing movement.

SENATOR BUTLER said the South did not take this course until ten of the Northern States had pledged themselves in an opposite manner.

SENATOR NILES admitted that this was true. But here was the distinction: the Northern States merely asserted their opinions as a principle, while the South follow up their pledge by an awful threat of nullification if their wishes are not complied with.

SENATOR WEBSTER said that he had been among the earliest to oppose acquisition of foreign territory. He referred to the maxim of Lord Bacon—that the best way to avoid any domestic disputes or difficulties was to avoid the occasion for them; and said that, in accordance with this maxim, he [Mr. W.] had always opposed the acquisition of foreign territory. There were wiser heads than Lord Bacon's now. There are persons who will provoke occasions, or certainly will meet them, and adopt circumstances as they may arise. He enumerated the difficulties in which this acquisition of territory had plunged us. He was not apprehensive of any disunion. He never contemplated its possibility. He was not one of those who accustom themselves to speak of such a contingency. An earthquake may come, a volcano may burst forth; but human foresight can do nothing to prevent such calamities. So the dissolution of the Union is among those possible calamities. He believed there was a disposition everywhere to support the Union, and that five out of six of our citizens would be glad to give back the new Territories we have acquired.

SENATOR JOHNSON said that the South honestly held the opinion that Congress has no power to prohibit slavery. He

believed the contrary opinion was entertained with equal honesty in the North. If the North, having the majority, insist on exercising the power, what can follow but the degradation of the South, or the dissolution of the Union? The only remedy was a just and honorable compromise.

SENATOR CALHOUN said: The North is determined to exclude the property of the slaveholder, and of course the slaveholder himself, from its territory. The effect of this determination of the North was to convert all the Southern population into slaves; and he would never consent to entail that disgrace on his posterity. He denounced any Southern man who would not take the same course. Gentlemen were greatly mistaken, if they supposed the Presidential question in the South would override this more important one. The separation of the North and the South is completed. The South has now a most solemn obligation to perform—to herself—to the Constitution—to the Union. She is bound to come to a decision not to permit this to go on any further, but to show that, dearly as she prizes the Union, there are questions which she regards as of greater importance than the Union.

Gentlemen may do with this bill as they please. If they will not give now what the South asks as a compromise, she will, at the next session, demand all, and will not be satisfied with anything less.

SENATOR BELL believed that the Senator from South Carolina, and those who concurred with him, had placed the South in a wrong position, when they assumed that, by the decision of this question, the die would be cast, and the issue must now be made which involves the dissolution of the Union. Until a vote of Congress should, on the subject of the Southern Territories, actually separate the Union, he never would believe that such a vote could be given.

SENATOR HOUSTON was ready to vote for the admission of Oregon, even with the prohibition of slavery attached to it, as it could never affect the southern Territories. He remembered the cry of disunion and nullification when the high tariff was imposed. That cry reached him in the wilderness, an exile from kindred, and friends and sections; but it rung in his ears, and wounded his heart. He had heard the menaces and cries of disunion until he had become familiar with them, and they had now ceased to produce alarm in his bosom. He had no fear of the dissolution of the Union, when he recollected how it had been established, and how it had been defended. It could not be the interest of the North to destroy the South, notwithstanding

the papers signed by old men, and old women, and pretty little girls, praying for abolition—these could not ruffle the Union. The intelligent and manly spirits of the North would rise up to defend the Union. He wished no separation of the States. He had too much confidence in the North to fear any injury from that section. And he thought the South—and he was a Southern man—should make some sacrifice for the purpose of reconciliation with the North. Oregon cannot obtain protection and good government, except from Congress; and he hoped these would be extended to her.

MR. JOHNSON, in reply to the Senator from Texas, declared that the South could not with any propriety rely on the magnanimity of the North. He also took exception to the course of the Senator from Tennessee [Mr. Bell], who, as a Southern man, looked forward to the day when the South would be saved by Northern generosity. The incendiary publications which had been circulated, as blood in the human body, through every vein and artery, with numerous other acts of notoriety, might be quoted to show the character of Northern generosity.

The South had asked us only to keep off legislative action on this subject. They asked only that the question should be submitted to the Supreme Court, to be decided upon in conformity with the Constitution. But the compromise based on this principle had been laid on the table by the other House—rejected without any of that courtesy and magnanimity which the Senators from Missouri and Texas had promised to us.

SENATOR WEBSTER said: Although slavery as attached to the South exists in other countries, he knew not that slaves transferable as chattels, to be separated from the globe, were to be found but in America, and in the colonies of America. He remembered when this was regarded as an evil fixed on us by the mother country, and it must be considered as an entailment. He referred to the original introduction of slavery in the South, and assumed that no one, as far as he could gather from the acts and debates in Congress, had contemplated any extension of it to new territory. In the Convention, and in the first Congress, it was conceded that slavery was a State institution, and that Congress had no power over it. He was of this opinion, and he would countenance no efforts to produce excitement by the introduction of these questions.

As the Senator from Georgia desires to leave the question to the decision of the civilized world, and as he acquiesced in that course, how would it then stand? The Southern Senators say we deprive them of the right to go into these newly acquired

Territories with their property. We certainly do not prevent them from going into these Territories with what is in general law called property. But these States have by their local laws created a property in persons, and they cannot carry these local laws with them. Slavery is created and exists by a local law, which is limited to a certain section; and it is asked that Congress shall establish a local law in other Territories, to enable Southern Senators to carry their particular law with them. No man can be held as a slave, except the local law shall accompany him. The slave is held to be free, until evidence shall be presented to prove that he is a slave.

He was not willing to extend the area of slavery, or to increase the slave representation in the other House. He thought enough had been yielded when twenty representatives from slave States, elected by three-fifths, were in the House of Representatives.

President Polk approved the bill, but in doing so sent a special message to Congress in which he advocated the submission to the people of California and New Mexico of the question whether these territories should be organized with or without slavery.

POPULAR SOVEREIGNTY

PRESIDENT POLK

Ought we now to disturb the Missouri and Texas compromise? Ought we, at this late day, in attempting to annul what has been so long established and acquiesced in, to excite sectional divisions and jealousies; to alienate the people of different portions of the Union from each other, and to endanger the existence of the Union itself?

Why should our institutions be endangered, because it is proposed to submit to the people of the remainder of our newly acquired territory lying south of thirty-six degrees thirty minutes, embracing less than four degrees of latitude, the question whether, in the language of the Texas compromise, they "shall be admitted (as a State) into the Union with or without slavery"? Is this a question to be pushed to such extremities by excited partisans on the one side or the other, in regard to our newly acquired distant possessions on the Pacific, as to endanger the union of thirty glorious States which constitute our Confederacy? I have an abiding confidence that the sober reflection

tion and sound patriotism of the people of all the States will bring them to the conclusion that the dictate of wisdom is to follow the example of those who have gone before us, and settle this dangerous question on the Missouri compromise, or some other equitable compromise, which would respect the rights of all, and prove satisfactory to the different portions of the Union.

The Democratic party had met in convention at Baltimore May 22, 1848, and nominated Senator Lewis Cass [Mich.] for President and William O. Butler [Ky.] for Vice-President.

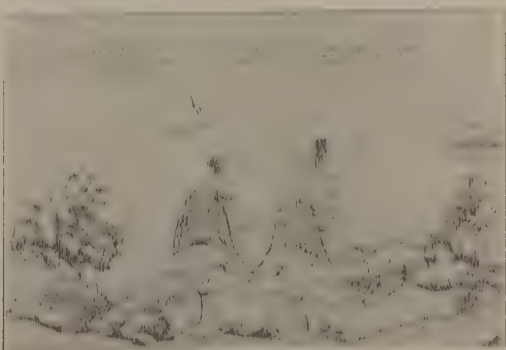
The principle of popular or "squatter" sovereignty was almost unanimously repudiated in the convention, and that of non-interference by the Federal Government with the "rights of property" (i. e., slavery) in the States was defeated by a vote of 246 to 36; yet, before Congress, then in session, dispersed, the rejected principles, as we have seen, became, the one the leading tenet of the party, and the other its almost equally accepted corollary.

In the ensuing election the Free Soil candidates, while securing no electoral votes, polled 291,263 popular votes. A majority of these were drawn from the Democratic party, this being particularly the case in New York State, whose 36 electoral votes were thereby thrown to the Whig candidates, and determined their election, the electoral vote being 163 for Taylor and Fillmore, and 127 for Cass and Butler. Although the political views of General Taylor were little known (he had never voted at any election, though he professed himself a Whig), owing to the fact that he was a Louisianian it was assumed by many in the South that he would not antagonize that section by his position on slavery, and he accordingly received the votes of Delaware, Maryland, North Carolina, Georgia, Kentucky, Tennessee, Louisiana, and Florida, whereas the Northern Democrats in Congress were incensed, and decided to cut loose from their Southern colleagues on the question of slavery in the Territories.

In his annual message at the opening of the next session of Congress (December 5, 1848) President Polk

repeated his recommendations about organizing the new Territories with the following addition:

If Congress, instead of observing the course of non-interference, leaving the adoption of their own domestic institutions to the people who may inhabit these Territories; or if, instead of extending the Missouri compromise line to the Pacific, shall



THE LIBERTY CHARIOT

Cass and Butler (horses) with Uncle Sam (driver) enter the White House gate, drawing the North and South, in the Union chariot, over the prostrate Van Buren, whose mount (the negro) is trampled upon by the Whig "luck" bearing Taylor and Fillmore.

From the collection of the New York Historical Society

prefer to submit the legal and constitutional questions which may arise to the decision of the judicial tribunals, as was proposed in a bill which passed the Senate at your last session, an adjustment may be effected in this mode. If the whole subject be referred to the judiciary, all parts of the Union should cheerfully acquiesce in the final decision of the tribunal created by the Constitution for the settlement of all questions which may arise under the Constitution, treaties, and laws of the United States.

Congress is earnestly invoked, for the sake of the Union, its harmony, and our continued prosperity as a nation, to adjust at its present session this, the only dangerous question which lies in our path.

The House, on December 13, by a vote of 108 to 80 instructed the Committee on Territories to bring in territorial bills for California and New Mexico "excluding slavery therefrom." One week later (December 20) the committee reported such a bill for California, and on January 3, 1849, another for New Mexico. On February 27 the California bill was passed by an almost sectional vote of 126 to 87. The New Mexico bill was not reached during the session.

Owing to the discovery of gold in California January 19, 1848, within a year the population had increased so rapidly that the people applied to Congress for admission to the Union. The Senate referred the matter to a select committee of which Stephen A. Douglas [Ill.] was made chairman. On January 29, 1849, Senator Douglas reported a bill to admit California as a State "upon an equal footing with the original States in all respects whatsoever, so soon as it shall contain the proper number of inhabitants, and they should establish for themselves a constitution and republican form of government"—an implicit recognition of the principle of "Popular Sovereignty."

On February 5 Robert M. T. Hunter [Va.] presented in the Senate resolutions of the Virginia legislature against applying the Wilmot proviso to the admission of any State or the organization of any territory south of the line established by the Missouri compromise, and against the abolition of slavery or the slave trade in the District of Columbia, threatening in either event "a determined resistance at all hazards and to the last extremity."

On these resolutions Senator Hunter spoke as follows:

PROTEST OF VIRGINIA AGAINST THE WILMOT PROVISIO

SENATOR HUNTER

Some two years since, Virginia felt it to be her duty, under the circumstances which surrounded her, to declare her opinions as to the right of Congress to prohibit slavery in territory to be acquired either by conquest or treaty. These resolutions

denied the power of Congress "to control, directly or indirectly," the institution of slavery, so as to impair the rights of the slaveholder; they declared that the territory to be acquired by the United States from any foreign power would be the common property of the States, and that any Federal legislation which directly or indirectly prevented the citizens of any of the States from emigrating to it with their property, of whatever description, would violate the Constitution and the rights of the States, would derogate from that perfect equality which belongs to the States of this Confederacy, and tend to subvert the Union itself; they proclaimed that if the Wilmot proviso should be adopted, in disregard of the spirit and principles of the Missouri compromise, and of every consideration of right, justice, and fraternal feeling, the people of Virginia could have no difficulty in choosing between the only alternatives that would then remain—of abject submission to aggression and outrage on the one hand, or determined resistance on the other, at all hazards and to the last extremity. They declared it to be the duty of every man from every section of this Confederacy, if he loves the Union, to oppose the passage of such a law; and, in the event of its enactment, they warned the slaveholding States, and every citizen thereof, that it would be their duty, as they valued their dearest privileges, their sovereignty, their independence, and their rights of property, to take firm, united, and concerted action in that emergency. Again, at the present session of the legislature, these resolutions have been solemnly reaffirmed.

Sir, we have been taught to believe that our Constitution, if administered truly, and in a spirit of justice and fraternal feeling, contained more securities for human happiness and the liberty of the citizen than any other instrument ever devised by the art of man. But the Union which we love is a confederacy of equals. The Constitution which we cherish makes no invidious distinction between States or citizens, but distributes equally its blessings and its burdens. Such is the Union and such is the Constitution which the blood of our fathers was shed to procure; and shall their sons so far fail in reverence to it as to agree to the subversion of the very principle which lies at the foundation of the structure? Sir, this cannot, ought not to be. The South cannot consent to be made the Jamaica or even the Ireland of this Confederacy, without an effort to prevent it. It would not be for the glory or even for the interest of the non-slaveholding States to force us to such extremities if they could. Sir, they can have no interest in forcing us to extremities; and

I believe that they would pause in that progress which is inevitably leading to such a result, if they understood fully how we think and feel on this subject. Alas! sir, that it should be so; but we have ceased to study and consider the feelings and opinions of each other in the true spirit of fraternal affection.

On February 20, 1849, Isaac P. Walker [Wis.] moved in the Senate to amend a general appropriation bill by extending the Constitution of the United States to the Territories. Upon this a constitutional debate, one of the most important in American history, arose between Daniel Webster [Mass.] and John C. Calhoun [S. C.].

EXTENSION OF THE CONSTITUTION TO THE TERRITORIES

SENATE, FEBRUARY 4, 1849

SENATOR WEBSTER said: Mr. President, it is of importance that we should seek to have clear ideas and correct notions of the question which this amendment of the member from Wisconsin has presented to us; and especially that we should seek to get some conception of what is meant by the proposition, in a law, to "extend the Constitution of the United States to the Territories." Why, sir, the thing is utterly impossible. All the legislation in the world, in this general form, could not accomplish it. There is no cause for the operation of the legislative power in such a manner as that. The Constitution—what is it? We extend the Constitution of the United States by law to a Territory! What is the Constitution of the United States? Is not its very first principle that all within its influence and comprehension shall be represented in the legislature which it establishes, with not only a right of debate and a right to vote in both Houses of Congress, but a right to partake in the choice of the President and Vice-President? And can we by law extend these rights, or any of them, to a Territory of the United States? Everybody will see that it is altogether impracticable. Well, sir, the amendment goes on, and says that the revenue laws shall, so far as they are suitable, be applied in the Territories. Now, with respect to that qualification, made by the honorable member from Wisconsin, I shall like to know if he understands it as I suppose he does. Does the expression, "as far as suitable," apply to the Constitution or the revenue laws, or both?

SENATOR WALKER.—It was not the proposition to extend the Constitution beyond the limits to which it was applicable.

SENATOR WEBSTER.—It comes to this, then, that the Constitution is to be extended as far as practicable; but how far that is to be decided by the President of the United States, and therefore he is to have absolute and despotic power. He is the judge of what is suitable and what is unsuitable, and what he thinks is suitable is suitable, and what he thinks unsuitable is unsuitable. He is "*omnis in hoc*"; and what is this but to say, in general terms, that the President of the United States shall govern this territory as he sees fit till Congress makes further provision? Now, if the gentleman will be kind enough to tell me what principle of the Constitution he supposes suitable, what discrimination he can draw between suitable and unsuitable, which he proposes to follow, I shall be instructed. Let me say that in this general sense there is no such thing as extending the Constitution. The Constitution is extended over the United States and over nothing else, and can extend over nothing else. It cannot be extended over anything except over the old States and the new States that shall come in hereafter, when they do come in. There is a want of accuracy of ideas in this respect that is quite remarkable among eminent gentlemen, and especially professional and judicial gentlemen. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty is extended by force of the Constitution itself over every new Territory. That proposition cannot be maintained at all. How do you arrive at it by any reasoning or deduction? It can be arrived at only by the loosest of all possible constructions. It is said this must be so, else the right of the *habeas corpus* would be lost. Undoubtedly these rights must be conferred by law before they can be enjoyed in a Territory.

Sir, if the hopes of some gentlemen were realized, and Cuba were to become a possession of the United States by cession, does anybody suppose that the *habeas corpus* and the trial by jury would be established in it by the mere act of cession? Why more than election laws and the political franchises, or popular franchises? Sir, the whole authority of Congress on this subject is embraced in that very short provision that Congress shall have power to make all needful rules and regulations respecting the Territories of the United States. The word is *Territories*; for it is quite evident that the compromises of the Constitution looked to no new acquisitions to form new Territories. But, as they had been acquired from time to time, new Terri-

teries have been regarded as coming under that general provision for making rules for *Territories*. We have never had a *Territory* governed as the United States are governed. The legislature and judiciary of Territories have always been established by a law of Congress. I do not say that, while we sit here to make laws for these Territories, we are not bound by every one of those great principles which are intended as general securities for public liberty. But they do not exist in Territories till introduced by the authority of Congress. These principles do not, *proprio vigore*, apply to any one of the Territories of the United States, because that Territory, while a Territory, does not become a part, and is no part, of the United States.

SENATOR CALHOUN.—I am very happy, sir, to hear this proposition thus asserted, for it will have the effect of narrowing very greatly the controversy between the North and the South, as it regards the slavery question in connection with the Territories. It is an implied admission that, if the Constitution does extend to the Territories, the South will be protected in the enjoyment of its property—that it will be under the shield of the Constitution. You can put no other interpretation upon the proposition which the gentlemen have made, that the Constitution does not extend to the Territories.

Then the simple question is, does the Constitution extend to the Territories, or does it not extend to them? Why, the Constitution interprets itself. It pronounces itself to be the supreme law of the land.

SENATOR WEBSTER.—What land?

SENATOR CALHOUN.—The land; the Territories of the United States are a part of the land. It is the supreme law, not within the limits of the States of this Union merely, but wherever our flag waves—wherever our authority goes, the Constitution in part goes, not all its provisions certainly, but all its suitable provisions. Why, can we have any authority beyond the Constitution? I put the question solemnly to gentlemen: if the Constitution does not go there, how are we to have any authority or jurisdiction whatever? Is not Congress the creature of the Constitution? does it not hold its existence upon the tenure of the continuance of the Constitution; and would it not be annihilated upon the destruction of that instrument, and the consequent dissolution of this confederacy? And shall we, the creature of the Constitution, pretend that we have any authority beyond the reach of the Constitution? Sir, we were told a few days since that the courts of the United States had made

a decision that the Constitution did not extend to the Territories without an act of Congress. I confess that I was incredulous, and I am still incredulous that any tribunal pretending to have a knowledge of our system of government, as the courts of the United States ought to have, could have pronounced such a monstrous judgment. I am inclined to think that it is an error which has been unjustly attributed to them; but, if they have made such a decision as that, I for one say that it ought not and never can be respected. The Territories belong to us; they are ours; that is to say, they are the property of the thirty States of the Union; and we, as the representatives of those thirty States, have the right to exercise all that authority and jurisdiction which ownership carries with it.

Sir, there are some questions that do not admit of lengthened discussion. This is one of them. The mere statement is sufficient to carry conviction with it. And I am rejoiced to hear gentlemen acknowledge that, if the Constitution is there, we are under its shield. The South wants no higher ground to stand upon. The gentlemen have put us upon high ground by the admission that their only means of putting their claims above ours is to deny the existence of the Constitution in California and New Mexico. Now, is there a more fundamental principle than that the States of which this Federal Union is composed have a community of interest in all that belongs to the Union in its federative character? And that the territory of the United States belongs to the Union in that capacity is declared by the Constitution, and that there shall be, in all respects, perfect equality among all the members of the confederacy. There is no principle more distinctly set forth than that there shall be no discrimination in favor of one section over another, and that the Constitution shall have no halfway operation in regard to one portion of the Union, while it shall have full force and effect in regard to another portion.

SENATOR WEBSTER.—The honorable Senator from South Carolina alludes to some decision of the United States courts as affirming that the Constitution of the United States does not extend to the Territories. I can assure him that the same thing has been decided by the United States courts over and over again for the last thirty years.

The Constitution, as the gentleman contends, extends over the Territories. How does it get there? I am surprised to hear a gentleman so distinguished as a strict constructionist affirming that the Constitution of the United States extends to the Territories without showing us any clause in the Constitu-

tion in any way leading to that result; and to hear the gentleman maintaining that position without showing us any way in which such a result could be inferred increases my surprise.

The Constitution of the United States extending over the Territories and no other law existing there! Why, I beg to know how any government could proceed, without any other authority existing there than such as is created by the Constitution of the United States? Does the Constitution of the United States settle titles to land? Does it regulate the rights of property? Does it fix the relations of parent and child, guardian and ward? The Constitution of the United States establishes what the gentleman calls a confederation for certain great purposes, leaving all the great mass of laws which is to govern society to derive their existence from State enactments. That is the just view of the state of things under the Constitution. And a State or a Territory that has no law but such as it derives from the Constitution of the United States must be entirely without any State or territorial government. The honorable Senator from South Carolina, conversant with the subject as he must be, from his long experience in different branches of the Government, must know that the Congress of the United States have established principles in regard to the Territories that are utterly repugnant to the Constitution. The Constitution of the United States has provided for them an independent judiciary; for the judge of every court of the United States holds his office upon the tenure of good behavior. Will the gentleman say that in any court established in the Territories the judge holds his office in that way? He holds it for a term of years, and is removable at executive discretion. How did we govern Louisiana before it was a State? Did the writ of *habeas corpus* exist in Louisiana during its territorial existence? Or the right to trial by jury? Who ever heard of trial by jury there before the law creating the territorial government gave the right to trial by jury? No one. When new territory has been acquired it has always been subject to the laws of Congress, to such law as Congress thought proper to pass for its immediate government, for its government during its territorial existence, during the preparatory state in which it was to remain until it was ready to come into the Union as one of the family of States.

The honorable Senator from South Carolina argues that the Constitution declares itself to be the law of the land, and that, therefore, it must extend over the Territories. "The land," I take it, means the land over which the Constitution is established, or, in other words, it means the States united under the

Constitution. But does not the gentleman see at once that that argument would prove a great deal too much? The Constitution no more says that the Constitution itself shall be the supreme law of the land than it says that the laws of Congress shall be the supreme law of the land. It declares that the Constitution and the laws of Congress passed under it shall be the supreme law of the land.

SENATOR CALHOUN.—The laws of Congress made in pursuance of its provisions.

SENATOR WEBSTER.—Well, I suppose the revenue laws are made in pursuance of its provisions; but, according to the gentleman's reasoning, the Constitution extends over the Territories as the supreme law, and no legislation on the subject is necessary. This would be tantamount to saying that the moment territory is attached to the United States, all the laws of the United States, as well as the Constitution of the United States, become the governing will of men's conduct and of the rights of property. Sir, this is a course of reasoning that cannot be maintained. The Crown of England often makes conquests of territory. Who ever heard it contended that the constitution of England, or the supreme power of Parliament, because it is the law of the land, extended over the territory thus acquired, until made to do so by a special act of Parliament? The whole history of colonial conquests shows entirely the reverse. Until provision is made by act of Parliament for a civil government, the territory is held as a military acquisition. It is subject to the control of Parliament, and Parliament may make all laws that they deem proper and necessary to be made for its government; but until such provision is made the territory is not under the dominion of English law. And it is exactly upon the same principle that territories coming to belong to the United States by acquisition or by cession, as we have no *jus colonizans*, remain to be made subject to the operation of our supreme law by an enactment of Congress.

SENATOR CALHOUN.—I shall be extremely brief in noticing the arguments of the honorable Senator from Massachusetts, and I trust decisive. His first objection is, as I understand it, that I show no authority by which the Constitution of the United States is extended to the Territories. How does Congress get any power over the Territories?

SENATOR WEBSTER.—It is granted in the Constitution in so many words: the power to make laws for the government of the Territories.

SENATOR CALHOUN.—Well, then, the proposition that the

Constitution does not extend to the Territories is false to that extent. How else does Congress obtain the legislative power over the Territories? And yet the honorable Senator says I assign no reason for it. I assigned the strongest reason. If the Constitution does not extend there, you have no right to legislate or to do any act in reference to the Territories.

Well, as to the next point. The honorable Senator states that he was surprised to hear from a strict constructionist the proposition that the Constitution extends itself to the Territories. I certainly never contended that the Constitution was of itself sufficient for the government of Territories without the intervention of legislative enactments. It requires human agency everywhere; it cannot extend itself within the limits of any State, in the sense of which the gentleman speaks of it. It is, nevertheless, the supreme law, in obedience to which, and in conformity with which, all legislative enactments must be made. And the proposition that the Constitution of the United States extends to the Territories so far as it is applicable to them is so clear a proposition that even the Senator from Massachusetts, with his profound talent, cannot disprove it. I will put the case of some of the negative provisions of the Constitution. Congress shall make no law concerning religion, nor create titles of nobility. Can you establish titles of nobility in California? If not, if all the negative provisions extend to the Territories, why not the positive? I do not think it necessary to dwell any longer upon this point.

SENATOR WEBSTER.—The precise question is whether a Territory, while it remains in a territorial state, is a part of the United States. I maintain it is not. And there is no stronger proof of what has been the idea of the government in this respect than that to which I have alluded, and which has drawn the honorable member's attention. Now, let us see how it stands. The judicial power of the United States is declared by the Constitution to be "vested in one Supreme Court and in such inferior courts as Congress shall from time to time ordain and establish." The whole judicial power, therefore, of the United States is in these courts. And the Constitution declares that "all the judges of these courts shall hold their offices during good behavior." Then the gentleman must admit that the legislation of Congress heretofore has not been altogether in error; that these territorial courts do not constitute a part of the judicial power of the United States, because the whole judicial power of the United States is to be vested in one Supreme Court, and such inferior courts as Congress shall establish, and the

judges of all these courts are to have a life tenure under the law; and we do not give such tenure, nor never did, to the judges of these territorial courts. That has gone on the presumption and true idea, I suppose, that the territories are not even part of the United States, but are subject to their legislation. Well, where do they get this power of legislation? Why, I have already stated that the Constitution says "the Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States"; and it is under that clause, and that clause only, that the legislation of Congress in respect to the Territories has been conducted. And it is apparent from our history that no other provision was intended for territorial government, inasmuch as it is highly probable, I think certain, that no acquisition of foreign territory was ever contemplated.

And again: there is another remarkable instance. The honorable gentleman, and his friends who act with him on these subjects, hold that the power of internal improvement within the United States does not belong to Congress. They deny that we can pass any law for internal improvements within any State of this Union, while they all admit that the moment we get out of the State into a Territory we can make just as much improvement as we choose. There is not an honorable gentleman on that side of the chamber who has not, time and again, voted money out of the public treasury for internal improvements out of the Union, in Territories, under the conception that, under that provision of the Constitution to which I have referred, they do not constitute any portion of the Union—that they are not parts of the Union.

Sir, there is no end to illustrations that might be brought upon this subject; our history is full of them. Our history is uniform in its course. It began with the acquisition of Louisiana. It went on after Florida became a part of the Union. In all cases, under all circumstances, by every proceeding of Congress on the subject, and by all judicature on the subject, it has been held that Territories belonging to the United States were to be governed by a constitution of their own, framed by a convention, and in approving that constitution the legislation of Congress was not necessarily confined to those principles that bind it when it is exercised in passing laws for the United States itself. But, sir, I take leave of the subject.

SENATOR CALHOUN.—Mr. President, a few words. First, as to the judiciary. If Congress has decided the judiciary of the Territories to be part of the judiciary of the United States, CON-

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gress has decided wrong. It may be that it is a part of the judiciary of the United States, though I do not think so.

SENATOR WEBSTER (in his seat).—Nor I.

SENATOR CALHOUN.—Again: the honorable gentleman from Massachusetts says that the Territories are not a part of the United States—are not of the United States. I had supposed that all the Territories were a part of the United States. They are called so.

SENATOR WEBSTER (in his seat).—Never.

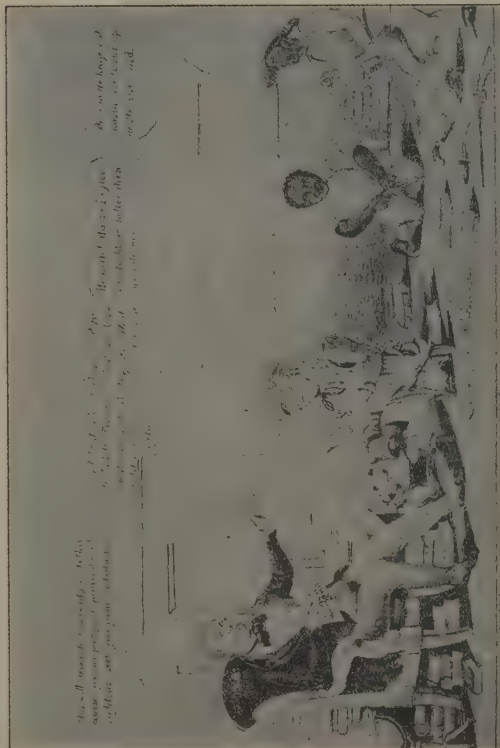
SENATOR CALHOUN.—At all events, they belong to the United States.

SENATOR WEBSTER (still in his seat).—That is another thing. The colonies of England belong to England, but they are not a part of England.

SENATOR CALHOUN.—Whatever belongs to the United States, they have authority over, and England has authority over whatever belongs to her. We can have no authority over anything that does not belong to the United States, I care not in what light it may be placed.

But, sir, as to the other point raised by the Senator—internal improvements. The Senator says there is not a member on this side of the chamber but what has voted to appropriate money out of the public treasury for internal improvements in the Territories. I know that a very large portion of the gentlemen on this side have voted to appropriate money out of the public treasury for improvements in Territories, upon the principle of ownership; that the land in the Territories in which improvements are made has an increased value in proportion to the sums appropriated, and the appropriations have, in every case, been given in alternate sections. But many gentlemen here have even utterly denied our right to make them under that form. But that question comes under another category altogether. It comes under the category whether we have a right to appropriate funds out of the common treasury at all for internal improvements.

Sir, I repeat it, that the proposition that the Constitution of the United States extends to the Territories is so plain a one, and its opposite—I say it with all respect—is so absurd a one, that the strongest intellect cannot maintain it. And I repeat that the gentlemen acknowledge, by implication, if not more than that, that the extension of the Constitution of the United States to the Territories would be a shield to the South upon the question in controversy between us and them. I hold it to be a most important concession. It narrows the ground of contro-



STUDYING POLITICAL ECONOMY
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versy between us. We then cannot be deprived of our equal participation in those Territories without being deprived of the advantages and rights which the Constitution gives us.

Senator John M. Berrien [Ga.] offered a modification of Senator Walker's amendment to the effect that the Constitution, *insofar as its provisions* can be applied to the condition of a Territory, should extend to the Territories; this was accepted by the mover, and the amendment so modified was adopted by a vote of 29 to 27.

Senator Webster made a determined effort to have the Walker amendment dropped, and succeeded in doing so only on the last day of the session. The Senate sat until the early morning hours of March 4, 1849, when Webster's motion was passed by a vote of 38 to 7, and the appropriations went through with no proviso about the new territories. President Polk at once signed the bill—perhaps unconstitutionally, for it is a disputed point as to whether his Administration had terminated at midnight, even though this hour had been conventionally advanced by the Senate to the close of their deliberations.

President Taylor, at the opening of the session of Congress (December 3, 1849), gave Robert Toombs [Ga.], a member of the House of Representatives, who approached him on the subject, clearly to understand that he would not veto a bill for the admission of the Territories with the Wilmot proviso.

The Southern Representatives then made a determined effort to elect one of themselves (Howell Cobb of Georgia) Speaker, in order, so far as possible, to prevent the passage of the proviso. Owing to the fact that a majority of the votes cast were required to elect, a deadlock ensued, and the feelings of the Southern Representatives were wrought up to a high pitch. On December 13 Richard K. Meade [Va.] made threats of secession from the Union by the South, which were more strongly repeated by Mr. Toombs, Alexander H. Stephens [Ga.], and William F. Colcock [S. C.].

ported that a plurality should decide. This was agreed to by a vote of 113 to 106, and on the next day Cobb was elected by a vote of 102, Robert C. Winthrop [Mass.], a Whig, receiving 99 votes, and David Wilmot [Pa.], the choice of the Free Soilers, 8 votes. Thus, through a division of the North, the South won its point.

On December 31 Joseph M. Root [O.] moved to instruct the Committee on Territories to bring in a bill for the organization of New Mexico with the Wilmot proviso. Of this proposition Thomas L. Clingman [N. C.] remarked on January 22, 1850:

"Attempt to trample on us and we part company. Remember, sir, that this very territory was acquired by conquest, and that while the South, according to its population, would have been required to furnish only one-third of the troops, it in point of fact did furnish two-thirds of the men that made the conquest. And the North, deficient comparatively as it was in the struggle, now says that its conscience, or its cupidity, will not permit us to have the smallest portion of that territory. Why, sir, this is the most impudent proposition that was ever maintained by any respectable body of men!"

RULE OR RUIN

HOUSE OF REPRESENTATIVES, DECEMBER 13, 1849

MR. MEADE.—Sir, let a proposition be made and supported by those who are desirous of erasing this demon of discord, for the purpose of uniting the conservatism on both sides, in opposition to any measure which shall look to the abolition of slavery in the District, or a prohibition of it in the Territories. If such a proposition should be adopted, I should be willing to take a Speaker from either side of the House, relying upon him to carry out the views thus expressed by a majority of this body.

But, sir, if the organization of this House is to be followed by the passage of these bills, if these outrages are to be committed upon my people, I trust in God, sir, that my eyes have rested upon the last speaker of the House of Representatives.

If the North generally, whose big prosperity is the result of unrestricted intercourse with the South, refuse the terms we prescribe, let us talk no more about the blessings of Union.

MR. TOOMBS.—I do not hesitate to avow before this House, and the country, and in the presence of the living God, that if by your legislation you seek to drive us from the Territories of California and New Mexico, purchased by the common blood and treasure of the whole people, and to abolish slavery in this district, thereby attempting to fix a national degradation upon half the States of this confederacy, *I am for disunion*, and, if my physical courage be equal to the maintenance of my convictions of right and duty, I will devote all I am and all I have on earth to its consummation.

MR. STEPHENS.—I concur in every word uttered by my colleague [Mr. Toombs], and, furthermore, I declare that, from the moment a concerted attack, made by the North upon the rights of the South, is an accomplished fact, the Union is thereby dissolved.

MR. COLCOCK.—As soon as the abolition of slavery in the District of Columbia is resolved upon, or the Wilmot proviso is passed, that moment I shall move for the dissolution of the Union.

These threats did not materialize, since Cobb, after all, was elected Speaker. On December 22 the question of the contest was referred to a committee which re-

CHAPTER V

THE OMNIBUS BILL

[DEBATES ON THE CLAY COMPROMISE MEASURES]

Message of President Taylor on Admission of California—Henry Clay's Resolutions in the Senate in Favor of Compromise on Slavery—Debate: in Favor of the Resolution, Clay, Thomas H. Benton [Mo.], Daniel Webster [Mass.]; Opposed, Henry S. Foote [Miss.], James M. Mason [Va.], Jefferson Davis [Miss.], John C. Calhoun [S. C.]—Resolutions Are Referred to a Committee of Thirteen—Death of Senator Calhoun—Report of the Committee Proposing Bills; These Are Amended and Combined in an "Omnibus Bill," and Passed—Protest of Southern Senators.

PRESIDENT TAYLOR, in a special message to Congress January 21, 1850, urged the admission of California under the Constitution which she had prepared, announcing himself in favor of the principle of Popular Sovereignty.

THE RIGHT OF A STATE TO SELF-GOVERNMENT

PRESIDENT TAYLOR

Should Congress, when California shall present herself for incorporation into the Union, annex a condition to her admission as a State affecting her domestic institutions contrary to the wishes of her people, and even compel her temporarily to comply with it, yet the State could change her constitution at any time after admission, when to her it should seem expedient. Any attempt to deny to the people of the State the right of self-government in a matter which peculiarly affects themselves will infallibly be regarded by them as an invasion of their rights; and, upon the principles laid down in our own Declaration of Independence, they will certainly be sustained by the great mass of the American people. To assert that they are a conquered people, and must as a State submit to the will of their conquerors, in this regard, will meet with no cordial re-

sponse among American freemen. Great numbers of them are native citizens of the United States, and not inferior to the rest of our countrymen in intelligence and patriotism; and no language of menace to restrain them in the exercise of an undoubted right, substantially guaranteed to them by the treaty of cession itself, shall ever be uttered by me, or encouraged and sustained by persons acting under my authority. It is to be expected that in the residue of the territory ceded to us by Mexico the people residing there will, at the time of their incorporation into the Union as a State, settle all questions of domestic policy to suit themselves.

On January 29 Henry Clay [Ky.], who had returned to the Senate for this express purpose, presented to that body his famous compromise resolutions on the subject of slavery. Upon them a prolonged debate occurred in which the chief speakers in favor of the resolutions, besides Senator Clay, were Thomas H. Benton [Mo.], Daniel Webster [Mass.]; those opposed to them were Henry S. Foote [Miss.], James M. Mason [Va.], Jefferson Davis [Miss.] and John C. Calhoun [S. C.].

SENATOR CLAY'S COMPROMISE RESOLUTIONS

SENATE, JANUARY 29-MARCH 7, 1850

SENATOR CLAY.—Mr. President, I hold in my hand a series of resolutions which I desire to submit to the consideration of this body. Taken together, in combination, they propose an amicable arrangement of all questions in controversy between the free and the slave States, growing out of the subject of slavery. The preamble and first resolution are as follows:

It being desirable for the peace, concord, and harmony of the Union of these States to settle and adjust amicably all existing questions of controversy between them arising out of the institution of slavery, upon a fair, equitable, and just basis: Therefore

1st. *Resolved*, That California ought, upon her application, to be admitted as one of the States of this Union, without the imposition by Congress of any restriction in respect to the exclusion or introduction of slavery within those boundaries.

The second resolution, sir, is as follows:

2d. *Resolved*, That as slavery does not exist by law, and is not likely to be introduced into any of the territory acquired by the United States

from the Republic of Mexico, it is inexpedient for Congress to provide by law either for its introduction into or exclusion from any part of the said territory; and that appropriate territorial governments ought to be established by Congress in all of the said territory, not assigned as the boundaries of the proposed State of California, without the adoption of any restriction or condition on the subject of slavery.

This resolution, sir, proposes a declaration of two truths—one of law and the other of fact. The truth of law which it declares is that there does not exist, at this time, slavery within any portion of the territory acquired by the United States from Mexico.

The next truth which the resolution asserts is that slavery is not likely to be introduced into any portion of that territory. That is a matter of fact. California, of all other portions acquired by us from Mexico that country into which it would have been most likely that slavery should have been introduced, California herself has met in convention, and, by a unanimous vote, embracing slaveholders from Mississippi, as well as from other parts, who concurred in the resolution, has declared against the introduction of slavery within her limits. I think, then, that, taking this leading fact in connection with all the evidence we have from other sources on the subject, I am warranted in the conclusion which constitutes the second truth which I have stated in this resolution.

The third resolution fixes the boundaries of the State, and the fourth provides for the assumption by the United States Government of California's obligations to Texas.

The fifth resolution, sir, and the sixth, like the third and fourth, are somewhat connected together. They are as follows:

5th. *Resolved*, That it is inexpedient to abolish slavery in the District of Columbia, while that institution continues to exist in the State of Maryland, without the consent of that State, without the consent of the people of the District, and without just compensation to the owners of slaves within the District.

6th. *But Resolved*, That it is expedient to prohibit within the District the slave-trade, in slaves brought into it from States or places beyond the limits of the District, either to be sold therein as merchandise, or to be transported to other markets without the District of Columbia.

The first of these resolutions, Mr. President, in somewhat different language, asserts substantially no other principle than that which was asserted by the Senate of the United States twelve years ago (1838) upon Resolutions which I then offered, and which passed—at least the particular resolution passed—by a majority of four-fifths of the Senate.

The next resolution proposed deserves a passing remark. It is that the slave trade within the District ought to be abolished, prohibited. I do not mean by that the alienation and transfer of slaves from the inhabitants within this District—the sale by one neighbor to another of a slave which the one owns and the other wants, that a husband may perhaps be put along with his wife, or a wife with her husband. I do not mean to touch at all the question of the right of property in slaves among persons living within the District; but the slave trade to which I refer was, I think, pronounced an abomination more than forty years ago by one of the most gifted and distinguished sons of Virginia, the late Mr. Randolph. And who is there who is not shocked at its enormity? Sir, it is a great mistake at the North if they suppose that gentlemen living in the slave States look upon one who is a regular trader in slaves with any particular favor or kindness. They are often—sometimes unjustly, perhaps—excluded from social intercourse. But, then, what is this trade? It is a good deal limited since the retrocession (in 1846) of the portion of the District formerly belonging to Virginia. Let the slave dealer who chooses to collect his slaves in Virginia and Maryland go to ports in these States; let him not come here and establish his jails and put on his chains, and sometimes shock the sensibilities of our nature by a long train of slaves passing through that avenue leading from this Capitol to the house of the Chief Magistrate of one of the most glorious republics that ever existed. Why should he not do it? Sir, I am sure I speak the sentiments of every Southern man, and every man coming from the slave States, when I say let it terminate, and that it is an abomination; that there is no occasion for it; it ought no longer to be tolerated.

The seventh resolution relates to a subject embraced in a bill now under consideration by the Senate. It is as follows:

7th. *Resolved*, That more effectual provisions ought to be made by law, according to the requirement of the Constitution, for the restitution and delivery of persons bound to service or labor in any State who may escape into any other State or Territory in the Union.

Sir, that is so evident and has been so clearly shown by the debate which has already taken place on the subject, that I have not now occasion to add another word.

The last resolution of the series of eight is as follows:

And 8th. *Resolved*, That Congress has no power to prohibit or obstruct the trade in slaves between the slaveholding States; but that the admission or exclusion of slaves brought from one into another of them depends exclusively upon their own particular laws.

It is obvious that no legislation is necessary or intended to follow that resolution. It merely asserts a truth, established by the highest authority of law in this country, and in conformity with that decision I trust there will be one universal acquiescence.

Mr. President, you have before you the whole series of resolutions, the whole scheme of arrangement and accommodation of these distracting questions, which I have to offer, after having bestowed on these subjects the most anxious, intensely anxious, consideration ever since I have been in this body. How far it may prove acceptable to both or either of the parties on these great questions it is not for me to say. I think it ought to be acceptable to both. There is no sacrifice of any principle, proposed in any of them, by either party. The plan is founded upon mutual forbearance, originating in a spirit of conciliation and concession; not of principles, but of matters of feeling.

Sir, although I believe this project contains about an equal amount of concession and forbearance on both sides, I might have asked from the free States of the North a more liberal and extensive concession than should be asked from the slave States. And why? You are numerically more powerful than the slave States, and greatness and magnanimity should ever be allied together.

But there are other reasons why concession upon such a subject as this should be more liberal, more expansive, coming from the free than from the slave States. It is a sentiment, a sentiment of humanity and philanthropy on your side. Aye, sir, and when a sentiment of that kind is honestly and earnestly cherished, with a disposition to make sacrifices to enforce it, it is a noble and beautiful sentiment; but, sir, when the sacrifice is not to be made by those who cherish that sentiment and inculcate it, but by another people, in whose situation it is impossible, from their position, for you to sympathize and to share all and everything that belongs to them, I must say to you, Senators from the free States, it is a totally different question. On your side it is a sentiment without sacrifice, a sentiment without danger, a sentiment without hazard, without peril, without loss. But how is it on the other side, to which, as I have said, a greater amount of concession ought to be made in any scheme of compromise?

In the first place, sir, there is a vast and incalculable amount of property to be sacrificed, and to be sacrificed, not by your sharing in the common burdens, but exclusive of you. And this is not all. The social intercourse, habit, safety, property, life,

everything is at hazard in a greater or less degree in the slave States.

Behold, Mr. President, that dwelling house now wrapped in flames. Listen, sir, to the rafters and beams which fall in succession, amid the crash; and the flames ascending higher and higher as they tumble down. Behold those women and children who are flying from the calamitous scene, and with their shrieks and lamentations imploring the aid of high Heaven. Whose house is that? Whose wives and children are they? Yours in the free States? No. You are looking on in safety and security, while the conflagration which I have described is raging in the slave States, and produced, not intentionally by you, but produced from the inevitable tendency of the measures which you have adopted, and which others have carried far beyond what you have wished.

In the one scale, then, we behold sentiment, sentiment, sentiment alone; in the other, property, the social fabric, life, and all that makes life desirable and happy.

Senator Clay closed his speech with the relation of an incident. A man, he said, had come to his lodgings that very morning and presented him with a precious relic.

And what, Mr. President, do you suppose it is? It is a fragment of the coffin of Washington—a fragment of that coffin in which now repose in silence, in sleep, and speechless, all the earthly remains of the venerated Father of his Country. Was it portentous that it should have been thus presented to me? Was it a sad presage of what might happen to that fabric which Washington's virtue, patriotism, and valor established? No, sir, no. It was a warning voice, coming from the grave to the Congress now in session to beware, to pause, to reflect before they lend themselves to any purposes which shall destroy that Union which was cemented by his exertions and example. Sir, I hope an impression may be made on your mind such as that which was made on mine by the reception of this precious relic.

SENATOR FOOTE.—Mr. President, I know well that the honorable Senator's intentions are pure and patriotic—that he designs only the safety and happiness of the whole Republic; and yet I do verily believe that if the resolutions now introduced by him shall be adopted, accompanied by the remarks which he has just uttered in our hearing, without any response, or even suggestion of objection from any Southern Senator, a presumption

of acquiescence might arise which would be deeply detrimental to a cause which I hold dearer than life itself.

If I understand the resolutions properly, they are objectionable, as it seems to me:

1. Because they only assert that it is not *expedient* that Congress should abolish slavery in the District of Columbia; thus allowing the implication to arise that Congress has power to legislate on the subject of slavery in the District, which may hereafter be exercised if it should become expedient to do so; whereas, I hold that Congress has, under the Constitution, no such legislative power at all, and any attempt thus to legislate would be a gross fraud upon all the States of the Union.

2. The resolutions of the honorable Senator assert that slavery does not now exist by law in the territories recently acquired from Mexico; whereas I am of opinion that the treaty with the Mexican Republic carried the Constitution, *with all its guarantees*, to all the territory obtained by treaty, and secured the privilege to every Southern slaveholder to enter any part of it, attended by his slave property, and to enjoy the same therein free from all molestation or hindrance whatsoever.

3. Whether slavery is or is not likely to be introduced into these territories, or into any one of them, is a proposition too uncertain, in my judgment, to be at present positively affirmed; and I am unwilling to make a solemn legislative declaration on the point. *Let the future provide the appropriate solution of this interesting question.*

4 and 5. * * * *

6. As to the abolition of the *slave trade* in the District of Columbia, I see no particular objection to it, provided it is done in a delicate and judicious manner, and is not a concession to menaces or demands of factionists and fanatics. If other questions can be adjusted, this one will, perhaps, occasion but little difficulty.

7. The resolutions which provide for the restoration of fugitives from labor or service, and for the establishment of territorial governments free from all restriction on the subject of slavery, have my hearty approval. The last resolution—which asserts that Congress has no power to prohibit the trade in slaves from State to State—I equally approve.

8. If all other questions connected with the subject of slavery can be satisfactorily adjusted, I see no objection to admitting all California above the line of 36 degrees and 30 minutes into the Union; provided another new slave State can be laid off within the present limits of Texas, so as to keep up the

present *equipoponderance* between the slave and the free States of the Union; and provided, further, all this is done by way of *compromise*, and in order to save the Union (as dear to me as to any man living).

SENATOR MASON.—Sir, I regret deeply that, in the earnest and honest desire which I have no doubt the Senator entertains to have these disturbing questions composed, he has felt it his duty, representing one of the slaveholding States, to offer such a proposition. I would go with him who went furthest, but within the limits of strict duty, in adjusting these unhappy differences; but I do not feel at liberty to move one step toward such a compromise, if constitutional right is invaded in the slightest degree.

Sir, so far as I have read these resolutions, there is but one proposition to which I can give a hearty assent, and that is the resolution which proposes to organize territorial governments at once in these Territories, without a declaration one way or the other as to their domestic institutions. But there is another which I deeply regret to see introduced into this Senate by a Senator from a slaveholding State; it is that which assumes that slavery now does not exist by law in those countries. I understand one of these propositions to declare that by law slavery is now abolished in New Mexico and California. That was the very proposition advanced by the non-slaveholding States at the last session, combated and disproved, as I thought, by gentlemen from the slaveholding States, and which the compromise bill was framed to test. So far I regarded the question of law as disposed of, and it was clearly and satisfactorily shown to be against the spirit of the resolution of the Senator from Kentucky. If the contrary is true, I presume the Senator from Kentucky would declare that, if a law is now valid in the Territories abolishing slavery, it could not be introduced there even if a law was passed creating the institution or repealing the statutes already existing; a doctrine never assented to, so far as I know, until now, by any Senator representing one of the slaveholding States. Sir, I hold the very opposite, and with such confidence that at the last session I was willing and did vote for a bill to test this question in the Supreme Court. Yet this resolution assumes the other doctrine to be true, and our assent is challenged to it as a proposition in law.

I deem it my duty to enter a decided protest on the part of Virginia against such doctrines. They concede the whole question at once, that our people shall not go into the new Territories and take their property with them; a doctrine to which I

never will assent, and for which, sir, no law can be found. There are other portions of the resolutions, for which, if they could be separated, I should be very willing to vote. That respecting fugitive slaves, and that respecting the organization of governments in these Territories, I should be willing to vote for, and I am happy to declare the gratification I experience at finding the Senator from Kentucky differing so much on this subject from the executive message recently laid before the Senate. I beg not to be understood as having spoken in any spirit of unkindness toward the Senator from Kentucky, for whom I entertain the warmest and most profound respect; but I cannot but express also my regret that he has felt it to be his duty, standing as he does before this people, and representing the people he does, to introduce into this body resolutions of this kind.

SENATOR DAVIS.—As it has been made an historical question as to what the position of the Senate was twelve years ago, and as with great regret I see this, the conservative branch of the Government, tending toward that fanaticism which seems to prevail with the majority in the United States, I wish to read from the journals of that date the resolutions then adopted, and to show that they went further than the honorable Senator from Kentucky has stated. I take it for granted, from the date to which the honorable Senator has alluded, he means the resolutions introduced by the honorable Senator from South Carolina [Mr. Calhoun], not now in his seat, and to which the Senator from Kentucky proposed certain amendments.

Senator Davis read the resolutions with Senator Clay's amendments.

Here, then, was fully and broadly asserted the danger resulting from the interference in the question of slavery in the District of Columbia, as trenching upon the rights of the slaveholding States. Twelve years only have elapsed, yet this brief period has swept away even the remembrance of principles then deemed sacred and necessary to secure the safety of the Union. Now an honorable and distinguished Senator, to whom the country has been induced to look for something that would heal the existing dissensions, instead of raising new barriers against encroachment, dashes down those heretofore erected, and augments the existing danger. A representative from one of the slaveholding States raises his voice for the first time in disregard of this admitted right.

But, sir, we are called on to receive this as a measure of compromise! Is a measure in which we of the minority are to resolve nothing a measure of compromise? I look upon it as but a modest mode of taking that the claim to which has been more boldly asserted by others; and that I may be understood upon this question, and that my position may go forth to the country in the same columns that convey the sentiments of the Senator from Kentucky, I here assert that never will I take less than the Missouri compromise line extended to the Pacific Ocean, with the specific recognition of the right to hold slaves in the territory below that line; and that, before such territories are admitted into the Union as States, slaves may be taken there from any of the United States at the option of their owners. I can never consent to give additional power to a majority to commit further aggressions upon the minority in this Union; and will never consent to any proposition which will have such a tendency, without a full guarantee or counteracting measure in connection with it. I forbear commenting at any further length upon the propositions embraced in the resolutions at this time.

SENATOR CLAY.—I am extremely sorry that this premature, and—allow me to say—in my opinion unnecessary, discussion has taken place. Whenever the Senator who has just resumed his seat chooses to meet me in argument at a proper time, I pledge myself to show him that there is not the slightest discrepancy in my course in 1838 and now.

SENATOR DAVIS.—Now is the time.

SENATOR CLAY.—I choose not to give way now.

SENATOR DAVIS.—The Senator asked me to name my time; and I say now.

SENATOR CLAY.—Not until I am done. I am reminded of my coming from a slave State. I tell the Senator from Mississippi, and I tell the Senator from Virginia, that I know my duty, and that I mean to express the opinions that I entertain, fearless of all mankind.

But, sir, as I do not choose that what I consider a mistaken representation of my sentiments in 1838 should go out, I will simply state what they were then, and what they are now.

Sir, there is not a word in that resolution that implies that any faith was pledged to the States, other than to Virginia and to Maryland, that Congress would not abolish slavery in this District. The resolution says that the agitation of the question of abolition by people living out of the District is, in its tendency, dangerous to the slave States; and that the abolition of

slavery in the District of Columbia would be just cause of alarm, not merely to Virginia and Maryland, but to all the slave States. And why? What was it that Abolitionists then proposed? It was abolition without compensation; it was to take the slaves without paying for them. And would it not in that form have been a just cause of alarm to the other States of the Union owning property of that description? The assertion, therefore, of opinion which I made then was that, by the nature and object of the cession of the ten-miles-square by Virginia and Maryland, it could not have been anticipated by either of those States that the power conveyed to the general Government over the ten-miles-square would be so exercised as to abolish slavery within those States respectively; and, further, that slavery, continuing in Virginia and Maryland, if such an abolition were to take place in the District of Columbia, and without compensation to the slaveholder, it would be, as it undoubtedly would have been, a just cause of alarm to the owners of that description of property, wherever situated. Now, sir, that was my doctrine in 1838, and that is my doctrine still.

Sir, I do not regard the mere phraseology of the resolution. I will not substitute the word "unconstitutional" for the word "inexpedient," for I do not believe it to be unconstitutional. I cannot believe it. If a power to legislate in all cases whatever be granted to Congress, does it not comprehend the power to legislate on the subject of slavery as well as upon all other subjects? The power is there; but there is an implied faith connected with the power, resulting from the circumstances to which I have referred, imposing on Congress the obligation not to exercise the power as long as slavery in Virginia and Maryland exists. And now that Virginia has separated from the District, such abolition may not take place without the consent of the people of the District and of Maryland, and also without, what I contended for in 1838, compensation to the owners of the slaves for their property thus liberated.

I am extremely sorry to hear the Senator from Mississippi say that he requires, first, the extension of the Missouri compromise line to the Pacific, and also that he is not satisfied with that, but requires, if I understood him correctly, a positive provision for the admission of slavery south of that line. And now, sir, coming from a slave State, as I do, I owe it to myself, I owe it to truth, I owe it to the subject, to say that no earthly power could induce me to vote for a specific measure for the introduction of slavery where it had not before existed, either south or north of that line. Coming as I do from a slave State, it is

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my solemn, deliberate, and well-matured determination that no power, no earthly power, shall compel me to vote for the positive introduction of slavery either south or north of that line. Sir, while you reproach, and justly, too, our British ancestors for the introduction of this institution upon the continent of America, I am, for one, unwilling that the posterity of the present inhabitants of California and of New Mexico shall reproach us for doing just what we reproach Great Britain for doing to us. If the citizens of those Territories choose to establish slavery, and if they come here with constitutions establishing slavery, I am for admitting them with such provisions in their constitutions; but then it will be their own work, and not ours, and their posterity will have to reproach them, and not us, for forming constitutions allowing the institution of slavery to exist among them. These are my views, sir, and I choose to express them; and I care not how extensively or universally they are known. The honorable Senator from Virginia has expressed his opinion that slavery exists in these Territories, and I have no doubt that opinion is sincerely and honestly entertained by him; and I would say, with equal sincerity and honesty, that I believe that slavery nowhere exists within any portion of the territory acquired by us from Mexico.

SENATOR DAVIS.—The Senator from Kentucky rose with an announcement that he wanted to know my time for meeting him in argument, and I have told him that my time is now. Several times has he regretted this premature discussion; but pray, sir, who introduced it? The Senator submitted his resolutions, discussed them *seriatim*, and then concluded with a net speech. Are we to understand that all this was done without intending to influence opinion? Was it a mere volley of blank cartridges that he was firing, in order that he might come up under cover of the smoke, and make a charge upon us before we saw him?

The Senator has set up his own cob-house, to show how skillfully he could knock it down. It is no fabric of mine. We maintain that it is the right of the people of the South to carry this species of property to any portion of the Territories of the United States; that it rests, under the Constitution, upon the same basis as other property; but, when speaking of a compromise, it was the ultimatum I announced. It is strange that the Senator from Kentucky should be so much surprised; it certainly was not a new question with him, nor with his colleagues, with whom, on a former occasion, a similar proposition originated. It is a partial recognition of a right we claim to be

coextensive with the Territories of the United States; but which we are willing, in a spirit of compromise, and in compliance with the past acquiescence of the States, to restrict by the parallel of 36 degrees 30 minutes north.

Now, this is conceding a great deal. If the line were established upon any great principle arising from climate or productions, it would be different; then the line would not extend upon the same parallel of latitude. If it were a line of temperature, then, as the isothermal line bends upward, it would go north of that parallel of latitude. It is out of respect to the past, and from anxious desire peaceably to adjust a most vexatious and dangerous question, that we agree to adopt this arbitrary line. And this compromise, upon which most of his fame rests, originated, under like circumstances, with the Senator who now with such settled purpose declares his opposition to a fair application of its principle to the present case. Then all the territory involved, that of Missouri, was slave territory; the compromise act prohibited slavery in a part of the territory. Now, according to the position of the Senator, slavery is excluded from the whole territory of California and New Mexico. What, then, would the application of the spirit of the Missouri compromise require? Clearly that in running the line the question should be put at rest by declaring that below said line slavery should be permitted. It is common property of the States, and, if it be proposed to make a division of it, fairness and future peace require that the rights and conditions of each part should be prescribed. Less than this would but narrow the ground and preserve the controversy. And, unless that compromise was founded in fraud, we expect its application in this case, where all is disputed—express provisions on both sides of the line. We cannot agree to leave the question open, especially after what has been said to-day. It is the effect and not the form which I consider it my duty to examine. What matters it whether it be under cover of the acts of the Mexican Government, or by the operation of Congressional law, that slavery is excluded? The effect is the same, under the rule the Senator from Kentucky adopts, as would result from an act of prohibition by the Congress of the United States. I can only say that whenever the Senator chooses to make his argument I shall be ready to meet it.

SENATOR CALHOUN.—I have, Senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effective measure, end in disunion. Entertaining this opinion, I have on all proper occasions en-

deavored to call the attention of each of the two great parties which divide the country to adopt some measure to prevent so great a disaster, but without success. The agitation has been permitted to proceed, with almost no attempt to resist it, until it has reached a period when it can no longer be disguised or denied that the Union is in danger. You have thus had forced upon you the greatest and the gravest question that can ever come under your consideration: How can the Union be preserved?

To give a satisfactory answer to this mighty question, it is indispensable to have an accurate and thorough knowledge of the nature and the character of the cause by which the Union is endangered. The first question, then, is: What is it that has endangered the Union?

To this question there can be but one answer: that the immediate cause is the almost universal discontent which pervades all the States composing the southern section of the Union. This widely extended discontent is not of recent origin. It commenced with the agitation of the slavery question, and has been increasing ever since. The next question, going one step further back, is: What has caused this widely diffused and almost universal discontent?

It is a great mistake to suppose, as is by some, that it originated with demagogues, who excited the discontent with the intention of aiding their personal advancement, or with the disappointed ambition of certain politicians, who resorted to it as the means of retrieving their fortunes. On the contrary all the great political influences of the section were arrayed against excitement, and exerted to the utmost to keep the people quiet. The great mass of the people of the South were divided, as in the other section, into Whigs and Democrats. The leaders and the presses of both parties in the South were very solicitous to prevent excitement and to preserve quiet; because it was seen that the effects of the former would necessarily tend to weaken, if not destroy the political ties which united them with their respective parties in the other section. Those who know the strength of party ties will readily appreciate the immense force which this cause exerted against agitation and in favor of preserving quiet. But as great as it was, it was not sufficiently so to prevent the widespread discontent which now pervades the section. No, some cause far deeper and more powerful than the one supposed must exist to account for discontent so wide and deep. The question then recurs: What is the cause of this discontent? It will be found in the belief of the people of the

Southern States, as prevalent as the discontent itself, that they cannot remain as things now are consistently with honor and safety in the Union. The next question to be considered is: What has caused this belief?

One of the causes is, undoubtedly, to be traced to the long-continued agitation of the slave question on the part of the North, and the many aggressions which they have made on the rights of the South during the time.

There is another, lying back of it, with which this is intimately connected, that may be regarded as the great and primary cause. That is to be found in the fact that the equilibrium between the two sections of the Government as it stood when the Constitution was ratified and the Government put in action has been destroyed.

On February 5 the debate was resumed.

SENATOR BENTON.—Mr. President, it has been affirmed and denied on this floor that slavery was abolished in Mexico. I am one of those who affirm its abolition; and I propose now to read some passages from Mexican law for the purpose of supporting my opinion.

[SENATOR BENTON read these passages.] I think everyone must see that slavery was abolished throughout the Mexican territory before the cession of California and New Mexico to the United States, and that slavery cannot exist there now by virtue of Mexican law. This is enough, in my opinion, to show the Wilmot proviso, in relation to these countries, to be a thing of nothing—an empty provision—a cloud without rain—unless it be a rain of blood.

Senator Calhoun, being indisposed, had put his speech in writing; it was read by Senator James M. Mason [Va.].

Senator Calhoun spoke of the growing political preponderance of the free States. Five new States would in all probability shortly be added to their number, making twenty free States to fifteen slave, for there was no prospect of an increase in the latter number.

This great increase of Senators added to the great increase of members of the House of Representatives and the electoral college on the part of the North, which must take place under

the next decade, will effectually and irretrievably destroy the equilibrium which existed when the Government commenced.

Had this destruction been the operation of time, without the interference of Government, the South would have had no reason to complain; but such was not the fact. It was caused by the legislation of this Government, which was appointed as the common agent of all, and charged with the protection of the interests of and security of all. The legislation by which it has been effected may be classed under three heads. The first is that series of acts by which the South has been excluded from the common territory belonging to all of the States, as the members of the Federal Union, and which have had the effect of extending vastly the portion allotted to the Northern section, and restricting within narrow limits the portion left the South; the next consists in adopting a system of revenue and disbursements, by which an undue proportion of the burden of taxation has been imposed upon the South and an undue proportion of its proceeds appropriated to the North; and the last is a system of political measures by which the original character of the Government has been radically changed.

The Senator stated that the legislative acts to which he referred were the Ordinance of 1787, the Missouri compromise, and the Oregon act. He did not include the territory recently acquired from Mexico. If slavery were also debarred here, the North would have acquired three-fourths of the acquired domain since the formation of the nation.

Taking up the second cause of the destruction of the equilibrium between the two sections of the country, the revenue system, Senator Calhoun showed that the South paid far more revenue than the North, and received far less disbursements of it, with the result that the North was increasing in wealth and population (for this wealth attracted immigration) at the expense of the South.

The third cause of the destruction of the equilibrium he declared was the change of the Federal Republic into a consolidated democracy, "as despotic in its tendency as any absolute government that ever existed."

However, even these aggrandizements and changes might be acquiesced in by the South were not her peculiar institution [slavery] also attacked in its home.

Every portion of the North entertains views and feelings

more or less hostile to it. Those most opposed and hostile regard it as a sin, and consider themselves under the most sacred obligation to use every effort to destroy it. Indeed, to the extent that they conceive they have the power, they regard themselves as implicated in the sin, and responsible for suppressing it by the use of all and every means. Those less opposed and hostile regard it as a crime, an offence against humanity, as they call it; and, although not so fanatical, feel themselves bound to use all efforts to effect the same object; while those who are least opposed and hostile regard it as a blot and a stain on the character of what they call the nation, and feel themselves accordingly bound to give it no countenance or support. On the contrary, the Southern section regards the relation as one which cannot be destroyed without subjecting the two races to the greatest calamity, and the section to poverty, desolation, and wretchedness; and accordingly they feel bound by every consideration of interest and safety to defend it.

Is it not certain that, if something decisive is not now done to arrest the agitation for the abolition of slavery, the South will be forced to choose between it and secession? Indeed, as events are now moving, it will not require the South to secede to dissolve the Union. Agitation will of itself effect it, as I shall proceed to show.

It is a great mistake to suppose that disunion can be effected by a single blow. The cords which bind these States together in one common union are far too numerous and powerful for that. Disunion must be the work of time. It is only through a long process, and successively, that the cords can be snapped, until the whole fabric falls asunder. Already the agitation of the slavery question has snapped some of the most important, and has greatly weakened all the others.

Here the Senator referred to the division of the religious denominations into Northern and Southern branches on the subject of slavery.

Parties, too, were breaking up on the issue.

If the agitation goes on, the same force, acting with increased intensity, will finally snap every cord, until nothing will be left to hold the States together except force.

He then asked: How can the Union be saved? In introducing this subject he first discussed how the Union could not be saved.

It cannot be saved by eulogies on the Union, however splendid or numerous. The cry of "Union, Union, the glorious Union!" can no more prevent disunion than the cry of "Health, health, glorious health!" on the part of the physician can save a patient lying dangerously ill. So long as the Union, instead of being regarded as a protector, is regarded in the opposite character, by not much less than a majority of the States, it will be in vain to attempt to conciliate them by pronouncing eulogies on it.

Besides, this cry of Union comes commonly from those whom we cannot believe to be sincere; it usually comes from our assailants. But we cannot believe them to be sincere; for, if they loved the Union, they would necessarily be devoted to the Constitution. It made the Union, and to destroy the Constitution would be to destroy the Union. But the only reliable and certain evidence of devotion to the Constitution is to abstain, on the one hand, from violating it, and to repel, on the other, all attempts to violate it.

But how stands the profession of devotion to the Union by our assailants, when brought to this test? Have they abstained from violating the Constitution? Let the many acts passed by the Northern States to set aside and annul the clause of the Constitution providing for the delivery up of fugitive slaves answer.

Nor can the Union be saved by invoking the name of the illustrious Southerner whose mortal remains repose on the western bank of the Potomac. He was one of us—a slaveholder and a planter. We have studied his history, and find nothing in it to justify submission to wrong. On the contrary, his great fame rests on the solid foundation that, while he was careful to avoid doing wrong to others, he was prompt and decided in repelling wrong. I trust that, in this respect, we profited by his example.

Nor can we find anything in his history to deter us from seceding from the Union, should it fail to fulfil the objects for which it was instituted, by being permanently and hopelessly converted into the means of oppressing instead of protecting us. On the contrary, we find much in his example to encourage us, should we be forced to the extremity of deciding between submission and disunion.

There existed then, as well as now, a union—that between a parent country and her ten colonies. It was a union that had much to endear it to the people of the colonies. Washington was born and grew up to manhood under that Union. He ac-

quired his early distinction in its service, and there is every reason to believe that he was devotedly attached to it. But his devotion was a rational one. He was attached to it, not as an end, but as a means to an end. When it failed to fulfil its end, and, instead of affording protection, was converted into the means of oppressing the colonies, he did not hesitate to draw his sword, and head the great movement by which that union was forever severed, and the independence of these States established. This was the great and crowning glory of his life, which has spread his fame over the whole globe, and will transmit it to the latest posterity.

Nor can the plan proposed by the distinguished Senator from Kentucky, nor that of the Administration, save the Union. I shall pass by, without remark, the plan proposed by the Senator, and proceed directly to the consideration of that of the Administration. I, however, assure the distinguished and able Senator that, in taking this course, no disrespect whatever is intended to him or his plan. I have adopted it, because so many Senators of distinguished abilities have replied to him.

The plan of the Administration cannot save the Union, because it can have no effect whatever toward satisfying the States composing the Southern section of the Union that they can, consistently with safety and honor, remain in the Union. It is, in fact, but a modification of the Wilmot proviso. It proposes to effect the same object, to exclude the South from all territory acquired by the Mexican treaty. It is well known that the South is united against the Wilmot proviso, and has committed itself by solemn resolutions to resist should it be adopted. Its opposition is *not to the name*, but that which it *proposes to effect*. That the Southern States hold to be unconstitutional, unjust, inconsistent with their equality as members of the common Union, and calculated to destroy irretrievably the equilibrium between the two sections. These objections equally apply to what, for brevity, I will call the executive proviso. There is no difference between it and the Wilmot, except in the mode of effecting the object, and in that respect I must say that the latter is much the least objectionable. It goes to its object openly, boldly, and distinctly. It claims for Congress unlimited power over the Territories, and proposes to assert it over the territories acquired from Mexico by a positive prohibition of slavery. Not so the executive proviso. It takes an indirect course, and, in order to elude the Wilmot proviso, and thereby avoid encountering the united and determined resistance of the South, it de-

nies, by implication, the authority of Congress to legislate for the Territories, and claims the right as belonging exclusively to the inhabitants of the Territories. But to effect the object of excluding the South, it takes care, in the meantime, to let in emigrants freely from the Northern States, and all other quarters, except from the South, which it takes special care to exclude by holding up to them the danger of having their slaves liberated under the Mexican laws. The necessary consequence is to exclude the South from that territory, just as effectually as would the Wilmot proviso.

In claiming the right for the inhabitant, instead of Congress, to legislate for the Territories, in the executive proviso, it assumes that the sovereignty over the Territories is vested in the former; or, to express it in the language used in a resolution offered by one of the Senators from Texas [General Houston, now absent], they have "the same inherent right of self-government as the people in the States." The assumption is utterly unfounded, unconstitutional, without example, and contrary to the entire practice of the Government, from its commencement to the present time, as I shall proceed to show.

The recent movement of individuals in California to form a constitution and a State government, and to appoint Senators and Representatives, is the first fruit of this monstrous assumption. It was the United States who conquered California, and finally acquired it by treaty. The sovereignty of that territory, of course, is vested in them, and not in the individuals who have attempted to form a constitution and a State, without their consent.

Now, if the sovereignty over the Territories is vested in the United States—that is, in the several States composing the Union—and the power of legislating over them is expressly vested in Congress, it follows that the individuals in California who have undertaken to form a constitution and a State have usurped the sovereignty of the State and the authority of Congress, and have acted in open defiance of them both. In other words, what they have done is revolutionary and rebellious in its character, anarchical in its tendency, and calculated to lead to the most dangerous consequences. Had they acted from premeditation and design, it would have been, in fact, actual rebellion; but such is not the case. The blame lies much less upon them than upon those who have induced them to take a course so unconstitutional and dangerous. They have been led into it by language held here, and the course pursued by the executive branch of the Government.

But, it may be asked, what is to be done with California should she not be admitted? I answer, remand her back to the territorial condition, as was done in the case of Tennessee in the early stage of the Government.

Having now shown what cannot save the Union, I return to the question with which I commenced. How can the Union be saved? There is but one way by which it can with any certainty; and that is by a full and final settlement, on the principle of justice, of all the questions at issue between the two sections. The South asks for justice, simple justice, and less she ought not to take. She has no compromise to offer but the Constitution, and no concession or surrender to make. She has already surrendered so much that she has little left to surrender. Such a settlement would go to the root of the evil, and remove all cause of discontent, by satisfying the South, that she could remain honorably and safely in the Union, and thereby it would restore the harmony and fraternal feelings between the sections which existed anterior to the Missouri agitation. Nothing else can, with any certainty, finally and forever settle the questions at issue, and so terminate agitation, and save the Union.

But can this be done? Yes, easily; not by the weaker party, for it can of itself do nothing—not even protect itself—but by the stronger. The North has only to will it to accomplish it—to do justice by conceding to the South an equal right in the acquired territory, and to do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled—to cease the agitation of the slave question, and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself, before the equilibrium between the sections was destroyed by the action of this Government. There will be no difficulty in devising such a provision—one that will protect the South, and which at the same time will improve and strengthen the Government, instead of impairing and weakening it.

But will the North agree to do this? It is for her to answer this question. But, I will say, she cannot refuse, if she has half the love of the Union which she professes to have, or without justly exposing herself to the charge that her love of power and aggrandizement is far greater than her love of the Union. At all events, the responsibility of saving the Union rests on the North, and not the South. The South cannot save it by any act of hers, and the North may save it without any sacrifice

whatever, unless to do justice, and to perform her duties under the Constitution, should be regarded by her as a sacrifice.

It is time, Senators, that there should be an open and manly avowal on all sides as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can hereafter be; and we, as the representatives of the States of this Union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion, cannot agree to settle them on the broad principle of justice and duty, say so; and let the States we both represent agree to separate and part in peace. If you are unwilling we should part in peace, tell us so, and we shall know what to do, when you reduce the question to submission or resistance. If you remain silent, you will compel us to infer by your acts what you intend. In that case, California will become the test question. If you admit her, under all the difficulties that oppose her admission, you compel us to infer that you intend to exclude us from the whole of the acquired territories, with the intention of destroying irretrievably the equilibrium between the two sections. We would be blind not to perceive, in that case, that your real objects are power and aggrandizement, and infatuated not to act accordingly.

Having faithfully done my duty to the best of my ability, both to the Union and my section, throughout this agitation, I shall have the consolation, let what will come, that I am free from all responsibility.

Senator Webster replied to the arguments of Senator Calhoun.

Mr. President, I wish to speak to-day, not as a Massachusetts man, nor as a Northern man, but as an American, and a member of the Senate of the United States.

It is fortunate that there is a Senate of the United States; a body not yet moved from its propriety, not lost to a just sense of its own dignity and its own high responsibilities, and a body to which the country looks with confidence for wise, moderate, patriotic, and healing counsels. It is not to be denied that we live in the midst of strong agitations, and surrounded by very considerable dangers to our institutions of government. The imprisoned winds are let loose. The east, the west, the north, and the stormy south all combine to throw the whole ocean into commotion, to toss its billows to the skies, and to disclose its

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profoundest depths. I do not expect, Mr. President, to hold, or to be fit to hold, the helm in this combat of the political elements; but I have a duty to perform, and I mean to perform it with fidelity—not without a sense of the surrounding dangers, but not without hope. I have a part to act, not for my own security or safety, for I am looking out for no fragment upon which to float away from the wreck, if wreck there must be, but for the good of the whole, and the preservation of the whole; and there is that which will keep me to my duty during this struggle, whether the sun and the stars shall appear or shall not appear for many days. I speak to-day for the preservation of the Union. "Hear me for my cause." I speak to-day, out of a solicitous and anxious heart, for the restoration to the country of that quiet and that harmony which make the blessings of this Union so rich and so dear to us all. These are the topics that I propose to myself to discuss; these are the motives, and the sole motives, that influence me in the wish to communicate my opinions to the Senate and the country; and if I can do anything, however little, for the promotion of these ends I shall have accomplished all that I desire.

Senator Webster then related the circumstances which made it imperative that California have an organized government—chiefly the great rush of settlers to the gold country.

It became a very important subject for legislative consideration and legislative decision to provide a proper territorial government for California, yet differences of opinion in the counsels of the Government prevented the establishment of any such territorial government for California at the last session of Congress. Under this state of things, the inhabitants of San Francisco and California—then amounting to a great number of people—in the summer of last year thought it to be their duty to establish a local government. Under the proclamation of General Riley, the people chose delegates to a convention. That convention met at Monterey. They formed a constitution for the State of California, and it was adopted by the people of California in their primary assemblages. Desirous of immediate connection with the United States, its Senators were appointed and Representatives chosen, who have come hither, bringing with them the authentic constitution of the State of California; and they now present themselves, asking in behalf of their State that the State may be admitted into this Union as one of the



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United States. This constitution, sir, contains an express prohibition against slavery or involuntary servitude in the State of California. It is said, and I suppose truly, that of the members who composed that convention some sixteen were natives, and had been residents of the slaveholding States, and about twenty-two were from the non-slaveholding States, and the remaining ten members were either native Californians, or old settlers in that country. This prohibition against slavery, it is said, was inserted with entire unanimity.

And it is this circumstance, sir, the prohibition of slavery by that convention, which has contributed to raise—I do not say it has wholly raised—the dispute as to the propriety of the admission of California into the Union under this Constitution. It is not to be denied, Mr. President, whatever reasons were assigned at the commencement of the late war with Mexico, that it was prosecuted for the purpose of the acquisition of territory. And, as the acquisition was to be south of the line of the United States, in warm climates and countries, it was naturally expected by the South that whatever acquisitions were made in that region would be added to the slaveholding portion of the United States. Events have turned out as was not expected, and that expectation has not been realized; and therefore some degree of disappointment and surprise has resulted. In other words, it is obvious that the question which has so long harassed the country, and at times very seriously alarmed the minds of wise and good men, has come upon us for a fresh discussion—the question of slavery in these United States.

Now, sir, upon the general nature, and character, and influence of slavery there exists a wide difference between the Northern portion of this country and the Southern. It is said, on the one side, that, if not the subject of any injunction or direct prohibition in the New Testament, slavery is a wrong; that it is founded merely in the right of the strongest; and that it is an oppression, like all unjust wars—like all those conflicts by which a mighty nation subjects a weaker nation to their will; and that slavery, in its nature, whatever may be said of it in the modifications which have taken place, is not in fact according to the meek spirit of the Gospel. It is not kindly affectioned. It does not "seek another's and not its own." It does not "let the oppressed go free." These are sentiments that are cherished, and recently with greatly augmented force, among the people of the Northern States. It has taken hold of the religious sentiment of that part of the country, as it has more or less taken hold of the religious feelings of a considerable portion

of mankind. The South, upon the other side, having been accustomed to this relation between the two races all their lives, from their birth; having been taught in general to treat the subjects of this bondage with care and kindness—and I believe, in general, feeling for them great care and kindness—have yet not taken this view of the subject which I have mentioned. There are thousands of religious men, with consciences as tender as any of their brethren at the North, who do not see the unlawfulness of slavery, and there are more thousands, perhaps, that, whatsoever they may think of it in its origin, and as a matter depending upon natural right, yet take things as they are, and, finding slavery to be an established relation of the society where they live, can see no way in which—let their opinions on the abstract question be what they may—it is in the power of the present generation to relieve themselves from this relation. And, in this respect, candor obliges me to say that I believe they are just as conscientious, many of them—and, of the religious people, all of them—as they are in the North, in holding different opinions.

Senator Webster here referred to the division of religious denominations on slavery. He had read the proceedings of the Methodist Episcopal separation, and had seen no real ground for it. It was the nature of religious men to become warm in such matters, and to go to extremes.

These persons are disposed to mount upon some duty as a war-horse, and to drive furiously on, and upon, and over all other duties that may stand in the way.

There are men who, in times of that sort, and disputes of that sort, deal with morals as with mathematics, thinking what is right may be distinguished from what is wrong with the precision of an algebraic equation. They have, therefore, none too much charity toward others who differ with them. They are apt, too, to think that nothing is good but what is perfect, and that there are no compromises or modifications to be made in submission to difference of opinion, or in deference to other men's judgment. If their perspicacious vision enables them to detect a spot on the face of the sun, they think that a good reason why the sun should be struck down from heaven. They prefer the chance of running into utter darkness to living in heavenly light, if that heavenly light be not absolutely without any imperfection. These are impatient men—too impatient al-

against it as the South, and the reason is, I suppose, because there was much less at the North; and the people did not see, or think they saw, the evils so prominently as they were seen, or thought to be seen, at the South.

The Convention reflected the judgment and sentiments of the great men of the South. The question was how to deal with it, and how to deal with it as an evil? Well, they came to this general result. They thought that slavery could not be continued in the country if the importation of slaves were made to cease, and therefore they provided that, after a certain period, the importation might be prevented by the act of the new Government. Twenty years was proposed by some gentlemen—a Northern gentleman, I think—and many of the Southern gentlemen opposed it as being too long. Mr. Madison, especially, was somewhat warm against it. He said it would bring too much of this mischief into the country to allow the importation of slaves for such a period, because we must take along with us, in the whole of this discussion, when we are considering the sentiments and opinions in which this constitutional provision originated, that the conviction of all men was that, if the importation of slaves ceased, the white race would multiply faster than the black race, and that slavery would therefore gradually wear out and expire. It may not be improper here to allude to that—I had almost said celebrated—opinion of Mr. Madison. You observe, sir, that the term slave, or slavery, is not used in the Constitution. The Constitution does not require that "fugitive slaves" shall be delivered up. It requires that "persons bound to service in one State, and escaping into another, shall be delivered up." Mr. Madison opposed the introduction of the term slave, or slavery, into the Constitution; for he said he did not wish to see it recognized by the Constitution of the United States of America that there could be property in men. Now, it was in the summer of 1787, the very time when the convention in Philadelphia was framing this Constitution, that the Congress in New York was framing the Ordinance of 1787. They passed that ordinance on the 13th of July, 1787, at New York, the very month—perhaps the very day—on which these questions about the importation of slaves, and the character of slavery, were debated in the convention at Philadelphia. And, so far as we can now learn, there was a perfect concurrence of opinion between these respective bodies; and it resulted in this ordinance of 1787, excluding slavery, as applied to all the territory over which the Congress of the United States had jurisdiction, and that was all the territory northwest of the Ohio.

ways to give heed to the admission of St. Paul, "that we are not to do evil that good may come"—too impatient to wait for the slow progress of moral causes in the improvement of mankind. They do not remember that the doctrines and the miracles of Jesus Christ have in eighteen hundred years converted only a small portion of the human race; and among the nations that are converted to Christianity they forget how many vices and crimes, public and private, still prevail, and that many of them—public crimes especially, which are offenses against the Christian religion—pass without exciting particular regret or indignation. Thus wars are waged, and unjust wars. I do not deny that there may be just wars. There certainly are, but it was the remark of an eminent person, not many years ago, on the other side of the Atlantic, that it was one of the greatest reproaches to human nature that wars were sometimes necessary. The defence of nations sometimes causes a war against the injustice of other nations.

Now, sir, in this state of sentiment, upon the general nature of slavery, lies the cause of a great portion of those unhappy divisions, exasperations, and reproaches which find vent and support in different parts of the Union.

And now let us consider, sir, what was the state of sentiment, North and South, in regard to slavery at the time this Constitution was adopted. Now, it will be found, sir, if we will carry ourselves by historical research back to that day, and ascertain men's opinions by authentic records still existing among us, that there was no great diversity of opinion between the North and the South upon the subject of slavery; and it will be found that both parts of the country held it equally an evil—a moral and political evil. It will not be found that, either at the North or at the South, there was much, though there was some, invective against slavery as inhuman and cruel. The great ground of objection to it was political; that it weakened the social fabric; that, taking the place of free labor, society was less strong and labor was less productive; and, therefore, we find, from all the eminent men of the time, the clearest expression of their opinion that slavery was an evil. And they ascribed it, not without truth, and not without some acerbity of temper and force of language, to the injurious policy of the mother country, who, to favor the navigator, had entailed these evils upon the colonies. The eminent men of the South held that slavery was an evil, a blight, a blast, a mildew, a scourge, and a curse. There are so terms of reprobation of slavery so vehement in the North of that day as in the South. The North was not so much excited

An honorable member, whose health does not allow him to be here to-day—

A SENATOR.—He is here. (Referring to Mr. Calhoun.)

MR. WEBSTER.—I am very happy to hear that he is—may he long be in health and the enjoyment of it to serve his country—said the other day that he considered this ordinance as the first in the series of measures calculated to enfeeble the South, and deprive them of their just participation in the benefits and privileges of this Government. He says, very properly, that it was done under the old Confederation, and before this Constitution went into effect; but my present purpose is only to say, Mr. President, that it was done with the entire and unanimous concurrence of the whole South.

But soon a change began at the North and the South, and a severance of opinion soon showed itself—the North growing much more warm and strong against slavery, and the South growing much more warm and strong in its support. Sir, there is no generation of mankind whose opinions are not subject to be influenced by what appears to them to be their present, and emergent, and exigent interest. I impute to the South no particularly interested view in the change which has come over her. I impute to her certainly no dishonest view. All that has happened has been natural.

Senator Webster ascribed the change in Southern sentiment to the sudden uprising and growth of the cotton industry.

The age of cotton became a golden age for our Southern brethren. It gratified their desire for improvement and accumulation at the same time that it excited it. The desire grew by what it fed upon, and there soon came to be an eagerness for other territory—a new area or new areas for the cultivation of the cotton crop; and measures were brought about, somewhat rapidly, one after another, under the lead of Southern men at the head of the Government—they having a majority in both branches of the Government—to accomplish their ends. In 1802, in pursuit of the idea of opening a new cotton region, the United States obtained a cession from Georgia of the whole of her Western territory, now embracing the rich and growing State of Alabama. In 1803 Louisiana was purchased from France, out of which the States of Louisiana, Arkansas, and Missouri have been framed, as slaveholding States. In 1819 the cession of Florida was made, bringing another cession of

slaveholding property and territory. Sir, the honorable member from South Carolina thought he saw in certain operations of the Government, such as the manner of collecting the revenue, and the tendency of those measures to promote emigration into the country, what accounts for the more rapid growth of the North than the South. He thinks they were not the operation of time, but of the system of government established under this Constitution. That is a matter of opinion. To a certain extent it may be so; but it does not seem to me that, if any operation of the Government could be shown in any degree to have promoted the population, and growth, and wealth of the North, it is much more sure that there are sundry important and distinct operations of the Government, about which no man can doubt, tending to promote, and which absolutely have promoted, the increase of the slave interest and the slave territory of the South. Allow me to say that it was not time that brought in Louisiana; it was the act of men. It was not time that brought in Florida; it was the act of men. And, lastly, sir, to complete those acts of men who have contributed so much to enlarge the area and the sphere of the institution of slavery, Texas—great, and vast, and illimitable Texas—was added to the Union, as a slave State, in 1845; and that, sir, pretty much closed the whole chapter and settled the whole account.

And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown, that there is not, at this moment, within the United States, or any Territory of the United States, a single foot of land, the character of which, in regard to its being free-soil territory or slave territory, is not fixed by some law, and some irrepealable law, beyond the power of the action of this Government.

Now, as to California and New Mexico, I hold slavery to be excluded from those Territories by a law even superior to that which admits and sanctions it in Texas—I mean the law of nature—of physical geography—the law of the formation of the earth. That law settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico. This country is fixed for freedom to as many persons as shall ever live there by as irrepealable, and a more irrepealable, law than the law that attaches to the right of holding slaves in Texas; and I will say further that, if a resolution, or a law, were now before us to provide a territorial government for New Mexico, I would not vote to put any prohibition into it whatever. The use of such a prohibition would

the persons whose slaves escape from them? None at all—none at all. Wherever I go and whenever I speak on the subject—and when I speak here I desire to speak to the whole North—I say that the South has been injured in this respect, and has a right to complain; and the North has been too careless of what I think the Constitution peremptorily and emphatically enjoins upon it as a duty.

Complaint has been made against certain resolutions that emanate from legislatures at the North, and are sent here to us, not only on the subject of slavery in this District, but sometimes recommending Congress to consider the means of abolishing slavery in the States. I should be sorry to be called upon to present any resolutions here which could not be referable to any committee or any power in Congress, and, therefore, I should be unwilling to receive from the legislature of Massachusetts any instructions to present resolutions expressive of any opinion whatever on the subject of slavery, as it exists at the present moment in the States, for two reasons: because, first, I do not consider that the legislature of Massachusetts has anything to do with it; and, next, I do not consider that I, as her representative here, have anything to do with it. Sir, it has become, in my opinion, quite too common; and, if the legislatures of the States do not like that opinion, they have a great deal more power to put it down than I have to uphold it. I will simply say this: if there be any matter of interest pending in this body while I am a member of it in which Massachusetts has an interest of her own not adverse to the general interest of the country, I shall pursue her instructions with gladness of heart and with all the efficiency which I can bring to it. But, if the question be one which affects her interest and at the same time affects the interests of all other States, I shall no more regard her political wishes or instructions than I would regard the wishes of a man who might appoint me an arbitrator or referee to decide some question of important private right and who might *instruct* me to decide in his favor. If ever there was a government upon earth, it is this Government; if ever there was a body upon earth, it is this body, which should consider itself as composed by agreement of all, appointed by some, but organized by the general consent of all, sitting here under the solemn obligations of oath and conscience to do that which they think is best for the good of the whole.

The Senator then discussed the Abolition societies. Though he knew that thousands of their members were

be idle as it respects any effect it would have upon the Territory, and I would not take pains to reaffirm an ordinance of nature, nor to reenact the will of God. And I would put in no Wilmot proviso for the purpose of a taunt or a reproach. I would put into it no evidence of the votes of superior power, to wound the pride, even whether a just pride, a rational pride, or an irrational pride—to wound the pride of the gentlemen who belong to the Southern States. I propose to inflict no such wound upon anybody, unless something essentially important to the country and efficient to the preservation of liberty and freedom is to be effected.

The Senator then discussed the mutual recrimination of North and South as tending to alienate the sections. Passing by as matters of dispute the other complaints of the South which had been enumerated by Senator Calhoun, he admitted that one complaint was just, namely, the Northern State legislatures had tried to evade the constitutional obligation to return fugitive slaves.

I have always thought that the Constitution addressed itself to the legislatures of the States themselves, or to the States themselves. When it is said that a person escaping into another State and becoming, therefore, within the jurisdiction of that State shall be delivered up, it seems to me the import of the passage is that the State itself, in obedience to the Constitution, shall cause him to be delivered up. But, when the subject, some years ago, was before the Supreme Court of the United States, the majority of the judges held that the power to cause fugitives from service to be delivered up was a power to be exercised under the authority of this Government. I do not know, on the whole, that it may not have been a fortunate decision. My habit is to respect the result of judicial deliberations and the solemnity of judicial decisions. But, as it now stands, the business of seeing that these fugitives are delivered up resides in the power of Congress and the national judicature, and my friend at the head of the Judiciary Committee has a bill on the subject now before the Senate, with some amendments to it, which I propose to support, with all its provisions, to the fullest extent. And I put it to all the sober and sound minds at the North as a question of morals and a question of conscience: What right have they, in all their legislative capacity, or any other, to endeavor to get round this Constitution, to embarrass the free exercise of the rights secured by the Constitution to

honest, well-meaning persons, he deplored the results of their agitation as wholly mischievous, defeating, indeed, their professed purpose. Instead of winning the South to their views, they stirred up resentment in that quarter against them until it was now forbidden to speak in any way against slavery, whereas before the abolition societies were organized the subject was freely discussed.

Let any gentleman who doubts of this recur to the debates in the Virginia House of Delegates in 1832 and he will see with what freedom a proposition, made by John Randolph, for the gradual abolition of slavery was discussed in that body. Every one spoke of slavery as he thought; very ignominious and disparaging names and epithets were applied to it. The debates in the House of Delegates on that occasion, I believe, were all published. They were read by every colored man who could read, and, if there were any who could not read, those debates were read to them by others. At that time Virginia was not unwilling nor afraid to discuss this question and to let that part of her population know as much of it as they could learn. That was in 1832. These abolition societies commenced their course of action in 1835. It is said—I do not know how true it may be—that they sent incendiary publications into the slave States; at any event, they attempted to arouse, and did arouse, a very strong feeling; in other words, they created great agitation in the North against Southern slavery. Well, what was the result? The bonds of the slaves were bound more firmly than before; their rivets were more strongly fastened. Public opinion, which, in Virginia, had begun to be exhibited against slavery and was opening out for the discussion of the question, drew back and shut itself up in its castle. I wish to know whether anybody in Virginia can now talk as Mr. Randolph, Governor McDowell, and others talked there openly and sent their remarks to the press in 1832. We all know the fact, and we all know the cause, and everything that this agitating people have done has been, not to enlarge but to restrain, not to set free but to bind faster the slave population of the South.

It is my firm opinion that, within the last twenty years, as much money has been collected and paid to the abolition societies, abolition presses, and abolition lecturers as would purchase the freedom of every slave—man, woman, and child—in the State of Maryland, and send them all to Liberia. I have no doubt of it. But I have yet to learn that the benevolence of

these abolition societies has at any time taken that particular turn. [Laughter.]

Again, sir, the violence of the press is complained of. The press violent! Why, sir, the press is violent everywhere. There are outrageous reproaches in the North against the South, and there are reproaches in not much better taste in the South against the North. Sir, the extremists of both parts of this country are violent; they mistake loud and violent talk for eloquence and for reason. They think that he who talks loudest reasons the best. And this we must expect when the press is free, as it is here—and I trust always will be—for, with all its licentiousness and all its evil, the entire and absolute freedom of the press is essential to the preservation of government on the basis of a free Constitution. Wherever it exists there will be foolish paragraphs and violent paragraphs in the press, as there are, I am sorry to say, foolish speeches and violent speeches in both Houses of Congress. In truth, sir, I must say that, in my opinion, the vernacular tongue of the country has become greatly vitiated, depraved, and corrupted by the style of our congressional debates. [Laughter.] And, if it were possible for our debates in Congress to vitiate the principles of the people as much as they have depraved their taste, I should cry out "God save the Republic!"

There are also complaints of the North against the South. The first and gravest is that the North adopted the Constitution, recognizing the existence of slavery in the States, and recognizing the right, to a certain extent, of representation of the slaves in Congress, under a state of sentiment and expectation which do not now exist; and that, by events, by circumstances, by the eagerness of the South to acquire territory and extend their slave population, the North finds itself, in regard to the influence of the South and the North, of the free States and the slave States, where it never did expect to find itself when they entered the compact of the Constitution. They complain, therefore, that, instead of slavery being regarded as an evil, as it was then, an evil which all hoped would be extinguished gradually, it is now regarded by the South as an institution to be cherished and preserved and extended—an institution which the South has already extended to the utmost of her power by the acquisition of new territory. Well, then, passing from that, everybody in the North reads; and everybody reads whatsoever the newspapers contain; and the newspapers, some of them—especially those presses to which I have alluded—are careful to spread about among the people every reproachful sentiment

and cultivate a better feeling and more fraternal sentiments between the South and the North.

Mr. President, I should much prefer to have heard from every member on this floor declarations of opinion that this Union should never be dissolved than the declaration of opinion that, in any case, under the pressure of any circumstances, such a dissolution was possible. I hear with pain, and anguish, and distress the word secession, especially when it falls from the lips of those who are eminently patriotic and known to the country and known all over the world for their political services. Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion! The breaking up of the fountains of the great deep without ruffling the surface! Who is so foolish—I beg everybody's pardon—as to expect to see any such thing? Sir, he who sees these States now revolving in harmony around a common center and expects to see them quit their places and fly off without convulsion, may look the next hour to see the heavenly bodies rush from their spheres and jostle against each other in the realms of space without producing the crush of the universe. There can be no such thing as a peaceable secession. Peaceable secession is an utter impossibility. Is the great Constitution under which we live here—covering this whole country—is it to be thawed and melted away by secession as the snows on the mountain melt under the influence of a vernal sun—disappear almost unobserved, and die off? No, sir! no, sir! I will not state what might produce the disruption of the States; but, sir, I see it as plainly as I see the sun in heaven—I see that disruption must produce such a war as I will not describe in its twofold characters.

Peaceable secession! peaceable secession! The concurrent agreement of all the members of this great Republic to separate! A voluntary separation with alimony on one side and on the other. Why, what would be the result? Where is the line to be drawn? What States are to secede? What is to remain American? What am I to be—an American no longer? Where is the flag of the Republic to remain? Where is the eagle still to tower? or is he to cower, and shrink, and fall to the ground? Why, sir, our ancestors—our fathers, and our grandfathers, those of them that are yet living among us with prolonged lives—would rebuke and reproach us; and our children, and our grandchildren would cry out: Shame upon us! if we, of this generation, should dishonor these ensigns of the power of the Government and the harmony of the Union, which is every day felt

uttered by any Southern man bearing at all against the North—everything that is calculated to exasperate, to alienate; and there are many such things, as everybody will admit, from the South, or some portion of it, which are spread abroad among the reading people; and they do exasperate, and alienate, and produce a most mischievous effect upon the public mind at the North. An honorable member from Louisiana addressed us the other day on this subject. I suppose there is not a more amiable and worthy gentleman in this chamber, nor a gentleman who would be more slow to give offence to anybody, and he did not mean in his remarks to give offence. But what did he say? Why, sir, he took pains to run a contrast between the slaves of the South and the laboring people of the North, giving the preference in all points of condition, and comfort, and happiness, to the slaves of the South. The honorable member doubtless did not suppose that he gave any offence, or did any injustice. He was merely expressing his opinion. But does he know how remarks of that sort will be received by the laboring people of the North? Why, who are the laboring people of the North? They are the North. They are the people who cultivate their own farms with their own hands—freeholders, educated men, independent men. And what can these people think when so respectable and worthy a gentleman as the member from Louisiana undertakes to prove that the absolute ignorance, and the abject slavery, of the South is more in conformity with the high purposes and destinies of immortal, rational human beings than the educated, the independent free laborers of the North?

There is a more tangible and irritating cause of grievance at the North. Free blacks are constantly employed in the vessels of the North, generally as cooks and stewards. When the vessel arrives these free colored men are taken on shore by the police or municipal authority, imprisoned and kept in prison till the vessel is again ready to sail. This is not only irritating but exceedingly inconvenient in practice, and seems altogether unjustifiable and oppressive. The mission of Samuel Hoar, of Massachusetts, some time ago to South Carolina was a well-intended effort to remove this cause of complaint. The North thinks such imprisonment illegal and unconstitutional; as the cases occur constantly and frequently, they think it is a great grievance.

Now, sir, so far as any of these grievances have their foundation in matters of law they can be redressed, and ought to be redressed; and, so far as they have foundation in matters of opinion, in sentiment, in mutual crimination and recrimination, all that we can do is to endeavor to allay the agitation

among us with so much joy and gratitude. What is to become of the army? What is to become of the navy? What is to become of the public lands? How is each of the thirty States to defend itself? I know, although the idea has not been stated distinctly, there is to be a Southern confederacy. I do not mean, when I allude to this statement, that any one seriously contemplates such a state of things. I do not mean to say that it is true, but I have heard it suggested elsewhere that that idea has originated in a design to separate. I am sorry, sir, that it has ever been thought of, talked of, or dreamed of in the wildest flights of human imagination. But the idea must be of a separation, including the slave States upon one side and the free States on the other. Sir, there is not—I may express myself too strongly perhaps—but some things, some moral things, are almost as impossible as other natural or physical things; and I hold the idea of a separation of these States—those that are free to form one government and those that are slaveholding to form another—as a moral impossibility. We could not separate the States by any such line if we were to draw it. We could not sit down here to-day and draw a line of separation that would satisfy any five men in the country. There are natural causes that would keep and tie us together, and there are social and domestic relations which we could not break if we would, and which we should not if we could. Sir, nobody can look over the face of this country at the present moment—nobody can see where its population is the most dense and growing—without being ready to admit, and compelled to admit, that, ere long, America will be in the valley of the Mississippi.

Well, now, sir, I beg to inquire what the wildest enthusiast has to say on the possibility of cutting off that river and leaving free States at its source and its branches and slave States down near its mouth? Pray, sir—pray, sir, let me say to the people of this country that these things are worthy of their pondering and of their consideration. Here, sir, are five millions of freemen in the free States north of the River Ohio: can anybody suppose that this population can be severed by a line that divides them from the territory of a foreign and an alien government down somewhere, the Lord knows where, upon the lower banks of the Mississippi? What will become of Missouri? Will she join the arrondissement of the slave States? Shall the man from the Yellowstone and the Platte be connected in the new republic with the man who lives on the southern extremity of the Cape of Florida? Sir, I am ashamed to pursue this line

of remark. I dislike it—I have an utter disgust for it. I would rather hear of natural blasts and mildews, war, pestilence, and famine than to hear gentlemen talk of secession. To break up! to break up this great Government! to dismember this great country! to astonish Europe with an act of folly such as Europe for two centuries has never beheld in any government! No, sir; no, sir! There will be no secession. Gentlemen are not serious when they talk of secession.

And now, Mr. President, instead of speaking of the possibility or utility of secession, instead of dwelling in these caverns of darkness, instead of groping with those ideas so full of all that is horrid and horrible, let us come out into the light of day; let us enjoy the fresh air of liberty and union; let us cherish those hopes which belong to us; let us devote ourselves to those great objects that are fit for our consideration and our action; let us raise our conceptions to the magnitude and the importance of the duties that devolve upon us; let our comprehension be as broad as the country for which we act, our aspirations as high as its certain destiny; let us not be pigmies in a case that calls for men.

Never did there devolve on any generation of men higher trusts than now devolve upon us for the preservation of this Constitution, and the harmony and peace of all who are destined to live under it. Let us make our generation one of the strongest, and the brightest, links in that golden chain which is destined, I fully believe, to grapple the people of all the States to this Constitution for ages to come. It is a great popular constitutional Government, guarded by legislation, by law, by judicature, and defended by the whole affections of the people. No monarchical throne presses these States together; no iron chain of despotic power encircles them; they live and stand upon a government popular in its form, representative in its character, founded upon principles of equality, and calculated, we hope, to last forever. In all its history it has been beneficent; it has trodden down no man's liberty; it has crushed no State. Its daily respiration, its liberty and patriotism; its yet youthful veins are full of enterprise, courage, and honorable love of glory and renown. It has received a vast addition of territory. Large before, the country has now, by recent events, become vastly larger. This Republic now extends with a vast breadth across the whole continent. The two great seas of the world wash the one and the other shore. We realize on a mighty scale the beautiful description of the ornamental edging of the buckler of Achilles—

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House by his Northern political opponents as well as by the statesmen of the South.

On April 3 John Bell [Tenn.] submitted in the Senate certain resolutions along the line of those of Senator Clay, but more favorable to the South, and more specific, especially in the matter of the return of fugitive slaves. They were referred to the Committee of Thirteen if it should be appointed.

Finally on April 18, 1850, the question was put to form the Committee of Thirteen and decided in the affirmative by a vote of 30 to 22. Henry Clay [Ky.] was appointed chairman of the committee. The other members were representative equally of the North and the South.

On May 8 Senator Clay presented the report of the committee, of which the following is a digest. In the first recommendation alone the committee was unanimous.

REPORT OF THE COMMITTEE OF THIRTEEN

1. In the case of a new State to be carved out of Texas, the initiative to be taken by the State and the question of slavery therein settled by a vote of the inhabitants. Constitutionality of the admission of States (including Texas) in the Louisiana Purchase not to be inquired into, the country having acquiesced in former admissions.

2. Irregularity of California's actions in applying for admission (such as the formation of a constitution) to be overlooked for similar reasons and her application to be granted.

3. New Mexico and Utah to be organized as Territories.

4. The admission of California into the Union and the territorial organization of New Mexico and Utah to be combined in one bill because of the common condition of acquisition by the United States, their common boundaries being fixed by the act, and because of the fact that certain Senators would not vote for the admission of the State except upon condition of the organization of the Territories. "Every measure," says the report, "may contain objectionable features to some." The question to be decided is, whether the good the measure contains is of greater amount and neutralizes anything exceptionable in it. "As nothing human is perfect, for the sake of that harmony so desirable in such a confederacy as this, we must be reconciled to secure as much as we can of what we wish."

"Now the broad shield complete the artist crowned,
With his last hand, and poured the ocean round;
In living silver seemed the waves to roll,
And beat the buckler's verge, and bound the whole."

On motion of Senator Henry S. Foote [Miss.] the Clay resolutions were, on March 12, 1852, referred to a Committee of Thirteen, who were instructed to "mature some scheme of compromise for the adjustment of



WEBSTER STEALING CLAY'S THUNDER WHILE FOOTE IS TALKING THE SENATE TO SLEEP

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all pending questions growing out of the institution of slavery."

The question of this reference was warmly debated, developing into a discussion of all the aspects of slavery. While interesting, the discussion brought forward no new arguments and is here omitted.

The debate on the Clay compromise was interrupted by the death of Senator Calhoun on March 31, 1850. Extended tributes were paid to him in the Senate and the

5. Omission in the joint bill of the Wilmot proviso on the one hand and any provision for the introduction of slavery on the other, the proviso being practically needless and its insertion an affront to the South, and the introduction of slavery being impracticable and an affront to the people of California who have declared against it. Recommendation that, in future legislation of this character the question of slavery be left to the people of the region affected, and so remove a source of discord from the Union. "As for California," says the report, "far from feeling her sensibility affected by her being associated with other kindred measures—she ought to rejoice and be highly gratified that, in entering into the Union, she may have contributed to the tranquillity and happiness of the great family of States of which, it is to be hoped, she may one day be a distinguished member."

6. Proposal that Texas relinquish territorial claims made by New Mexico for a pecuniary consideration made by the United States Government, the Government reimbursing itself by the sales of these relinquished lands. This boundary question to be incorporated in the joint bill aforesaid.

7. Amendment of the existing law (of 1793) more effectually to provide for the recovery of fugitive slaves, and, at the same time, to prevent abuses in such recovery. The report says:

"The text of the Constitution is quite clear: 'No person held to labor or service in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due.'"

"It is now well known and incontestable that citizens in slaveholding States encounter the greatest difficulty in obtaining the benefit of this provision of the Constitution. The attempt to recapture a fugitive is almost always a subject of great irritation and excitement, and often leads to most unpleasant, if not perilous, collisions. An owner of a slave, it is quite notorious, cannot pursue his property, for the purpose of its recovery, in some of the States, without imminent personal hazard. This is a deplorable state of things which ought to be remedied. The law of 1793 has been found wholly ineffectual and requires more stringent enactments. There is, especially, a deficiency in the number of public functionaries authorized to afford aid in the seizure and arrest of fugitives. Various States have declined to afford aid and cooperation in the surrender of fugitives from labor, as the committee believe, from a misconception of their

duty arising under the Constitution of the United States. It is true that a decision of the Supreme Court of the United States has given countenance to them in withholding their assistance. But the committee cannot but believe that the intention of the Supreme Court has been misunderstood. They cannot but think that that court merely meant that laws of the several States which created obstacles in the way of the recovery of fugitives were not authorized by the Constitution, and not that State laws affording facilities in the recovery of fugitives were forbidden by that instrument.

"The non-slaveholding States, whatever sympathies any of their citizens may feel for persons who escape from other States, cannot discharge themselves from an obligation to enforce the Constitution of the United States. All parts of the instrument being dependent upon, and connected with, each other ought to be fairly and justly enforced. If some of the States may seek to exonerate themselves from one portion of the Constitution, other States may then endeavor to evade the performance of other portions of it; and thus the instrument, in some of its most important provisions, might become inoperative and invalid.

"In all cases of the arrest, within a State, of persons charged with offences; in all cases of the pursuit of fugitives from justice from one State to another State; in all cases of extradition provided for by treaties between foreign powers—the proceeding uniformly is summary. It has never been thought necessary to apply in cases of that kind the forms and ceremonies of a final trial. And, when that trial does take place, it is in the State or country from which the party has fled, and not in that in which he has found refuge. By the express language of the Constitution, whether the fugitive is held to service or labor or not, is to be determined by the laws of the State from which he fled; and, consequently, it is most proper that the tribunals of that State should expound and administer its own laws. If there have been any instances of abuse in the erroneous arrest of fugitives from service or labor the committee have not obtained knowledge of them. They believe that none such have occurred, and that such are not likely to occur. But, in order to guard against the possibility of their occurrence, the committee have prepared, and herewith report, a section to be added to the fugitive bill now pending before the Senate. According to this section, the owner of a fugitive from service or labor is, when practicable, to carry with him to the State in which the person is found, a record, from a competent tribunal, adjudicat-

ing the facts of elopement and slavery, with a general description of the fugitive."

The committee submitted a bill for the form of trial of fugitives in the States whence they had fled. In concluding comment on the Fugitive Law, it said:

"If, in its practical operation, it shall be found insufficient, and, if no adequate remedy can be devised for the restoration to their owners of fugitive slaves, those owners will have a just title to indemnity out of the treasury of the United States."

8. Slavery should not be abolished in the District of Columbia because, without entering in the question of the power of Congress to do so, this is inexpedient, as it would excite alarm in the slave States. Besides, the number of slaves in the District is rapidly diminishing. The slave trade, however, should be abolished in the District.

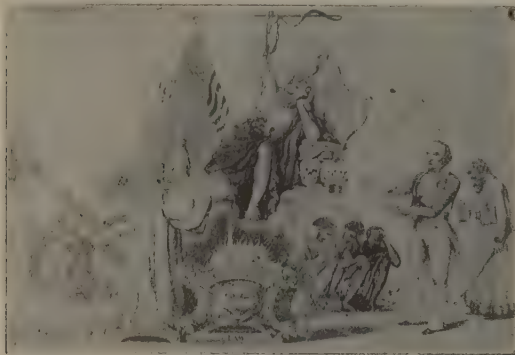
Bills were presented by the committee to execute its several recommendations.

The anti-slavery sentiment in the country was outraged by the abandonment, on the part of some of the Northern members of the committee, of the Wilmot proviso. The indignation was especially directed against Daniel Webster, who had voted with the Southern Senators on this point. The anti-slavery press charged him with treason to the cause of freedom, and John Greenleaf Whittier, rather in sorrow than in anger, wrote a poem upon his defection entitled "Ichabod," i. e., "The glory has departed."

The debate on the "Omnibus Bill," as the compromise measure of the Committee of Thirteen was now generally termed, was resumed in the Senate on July 22. Henry Clay made a long and eloquent plea in favor of its passage. In the course of his remarks he inferentially alluded to Representative R. Barnwell Rhett [S. C.] as a "disunionist." This was replied to by Senator R. W. Barnwell [S. C.], who drew from Senator Clay the affirmation that if Mr. Rhett put into execution the threats to which he (Senator Clay) had alluded he would be a traitor.

The forebodings of Senator Clay that the "Omnibus Bill" would not be passed were thoroughly realized. One by one it was shorn of its members until all that

remained of it was the provision for the territorial organization of Utah. It was received in this form on July 31 by roars of laughter from the Senate. On August 7 the bill fixing the boundaries of Texas was passed in the Senate, and on August 12 the bill to admit California into the Union (by a vote of 34 to 18). A number of Southern Senators entered a protest against



"NO HIGHER LAW"
From the collection of the New York Historical Society

the conditions of the California bill on the ground that "an odious discrimination was made against the property of the fifteen slaveholding States, who are thus deprived of the equality which the Constitution manifestly designs" and that the precedent was thereby established for the future admission of States into the Union with a virtual exclusion of the rights of Southern citizens to carry their slaves thither. This protest was laid on the table on August 15 by a vote of 22 to 19.

On the same day the bill organizing New Mexico was passed in the Senate by a vote of 27 to 10. The bill organizing Utah was also passed. The House concurred in these bills with an amendment that no citizen in the Territories "should be deprived of his life, liberty,

or property except by judgment of his peers or the laws of the land." On September 9 this amendment was accepted by the Senate, and the bills received the signature of Millard Fillmore, who had succeeded to the presidency on the death of Zachary Taylor, July 9, 1850.

CHAPTER VI

THE FUGITIVE SLAVE LAW

Passage of the Fugitive Act of 1850—Personal Liberty Laws Passed by Northern States to Nullify the Act—Passage of Bill to Suppress the Slave Trade in the District of Columbia—"A New Alignment of Parties on Slavery": Speech in the House of Joshua R. Giddings [O.], on the Fugitive Slave Law—The Nashville Convention "Fire-Eaters" vs. Unionists in the South—The Union Party in the North—Manifesto of Representative Alexander H. Stephens [Ga.], Senator Henry Clay [Ky.], et al., Against Agitating the Slavery Question—Rescue of the Fugitive Slave Shadrach: Proclamation and Message Concerning It by President Fillmore—Debate in the Senate on the Message: in Favor, Clay, Jeremiah Clemens [Ala.], Stephen A. Douglas [Ill.], John M. Berrien [Ga.], Solomon U. Downs [La.]; Opposed, John P. Hale [N. H.], John Davis [Mass.], Salmon P. Chase [O.], R. Barnwell Rhett [S. C.], Jefferson Davis [Miss.]—Secession Declaration of the Southern Rights Association—Triumph of the Union Party in the South—Joint Debate Between Henry S. Foote (Unionist) and Jefferson Davis (Conditional Secessionist) in Gubernatorial Campaign in Mississippi—Speaking Tour of Daniel Webster in New York and Virginia, Upholding Fugitive Slave Law—Election of Charles Sumner [Mass.] and Benjamin Wade [O.], Anti-Slavery Men, to the Senate—President Fillmore in Annual Message (1851) Again Urges Enforcement of the Fugitive Slave Law.

EARLY in the session of 1849-50 the Judiciary Committee of the Senate reported a bill on the subject of the return of fugitive slaves. After various substitutions and amendments the bill was passed late in the session by a vote of 27 to 12, more than 20 Senators dodging the issue by refraining from voting.

As approved by President Fillmore September 18, 1850, the bill consisted of ten sections, an abstract of which is as follows: (1) the powers of judges under the act of 1793 were now given to United States commissioners; (2) the territorial courts were also to have

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for issuing a certificate in any State or Territory to which the slave had fled.

The passage of the act, says Alexander Johnston in his "American Political History," gave a sudden and great impetus to the search for fugitive slaves in the North which was accompanied by various revolting circumstances, brutality in the captors, bloodshed by the captors or captured, or both, and attempted suicide to avoid arrest. From many localities in the North, persons who had long been residents were suddenly seized and taken South as fugitive slaves; and these latter arrests were more efficacious than the former in rousing Northern opposition to the law, for they seemed to show that not merely the execution but the principle of the law was unjust and illegal. Margaret Garner's attempted murder of her children in Ohio to save them from slavery,¹ and Anthony Burns's arrest in Boston,² were the cases which made most noise at the time.

The political consequence of the passage of the Fugitive Slave law of 1850 was the demand, first by the Free Soil party, and then by many members of the Republican party, for the repeal of the Fugitive Slave law, which the South considered irrepealable, as part of a compromise. The success of the Republican party in 1860 by a vote of the North was therefore construed by secessionists at the South as a final refusal by the North to enforce the Compromise of 1850, and was the principal excuse for secession.

The Fugitive Slave law was not finally repealed until June 28, 1864.

PERSONAL LIBERTY LAWS

In order to nullify the act within a few years after its passage many Northern States passed "Personal Liberty" laws.

These laws generally prohibited the use of the State's jails for detaining fugitives; provided State officers under various names throughout the State to act as counsel for persons alleged to be fugitives; se-

¹ January 27, 1856.

² May 27, 1854.

the power of appointing such commissioners; (3) all United States courts were so to enlarge the number of commissioners as to give facilities for the arrest of fugitive slaves; (4) commissioners were to have concurrent jurisdiction with United States judges in giving certificates to claimants and ordering the removal of fugitive slaves; (5) United States marshals and deputies were required to execute writs under the act, the penalty for refusal being a fine of \$1,000, the marshal being further liable on his bond for the full value of any slave escaping from his custody "with or without the assent" of the marshal or his deputies; the commissioners or officers appointed by them were empowered to call the bystanders to help execute writs, and all good citizens were required to aid and assist when required; (6) on affidavit before any officer authorized to administer an oath, United States courts or commissioners were to give the claimant a certificate and authority to remove his fugitive slave whence he had escaped; in no case was the testimony of the fugitive to be admitted in evidence, and the certificate, with the seal of the court, was to be conclusive evidence of the claimant's title, thus cutting off any real benefit of the writ of *habeas corpus* from the fugitive; (7) imprisonment for six months, a fine of \$1,000 and civil damages of \$1,000 to the claimant were to be the punishment for obstructing an arrest, attempting a rescue, or harboring a fugitive after notice; (8) commissioners were to be paid fees of \$10 when a certificate was granted, and of \$5 when their decision was in favor of the alleged fugitive; fees of other officers were to follow the rules of the court; (9) on affidavit by the claimant that he apprehended a rescue, the marshal was not to surrender the fugitive to the claimant at once, but was first to take him to the State whence he had fled, employing any assistance necessary to overcome the rescuing force; (10) any claimant, by affidavit before any court of record in his own State or territory, might obtain a record with a general description of the fugitive, and an authenticated copy of such record was to be conclusive evidence, on proof of the identity of the fugitive,

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cured to all such persons the benefits of *habeas corpus* and trial by jury; required the identity of the fugitive to be proved by two witnesses; forbade State judges and officers to issue writs or give any assistance to the claimant, and imposed a heavy fine and imprisonment for the crime of forcibly seizing or representing as a slave any free person with intent to reduce him to slavery.

The Fugitive Slave law and the Personal Liberty laws, says Professor Johnston, together show plainly that the Compromise of 1850 was far worse than labor lost. It gave the South a law to which it had no title; even R. Barnwell Rhett, in the South Carolina secession convention, declared that he had never considered the Fugitive Slave law constitutional. It thus provoked the passage of the equally unconstitutional Personal Liberty laws in the North. Each section, ignoring the other's complaints, exhausted its own patience in calling for a redress which neither was willing to accord first.

SUPPRESSION OF SLAVE TRADE IN DISTRICT OF COLUMBIA

With the Fugitive Slave bill was passed that for the suppression of the slave trade in the District of Columbia.

In his annual message at the opening of Congress in December, 1850, President Fillmore declared himself in favor of the enforcement of the Fugitive Slave law.

Upon this declaration and the high officer who made it Joshua R. Giddings [O.] spoke as follows in the House of Representatives on December 9:

A NEW ALIGNMENT OF PARTIES ON SLAVERY

JOSHUA R. GIDDINGS, M. C.

No man had ever come into the presidential chair who so unceremoniously cast aside and repudiated the important pledges of his friends and his party. No public man of high standing, from the free States, has so suddenly and so boldly abjured the cause of freedom and, before the world, pledged fealty to the

slave power, saving and excepting his Secretary of State [Daniel Webster], whose counsels he appears to have adopted.

Mr. Giddings charged the President with partiality toward the South in the execution of the laws. He had not removed nor even reprovved Federal officers in that section who had violated the mails, seeking to suppress anti-slavery literature.

He sees the free colored citizens of the free States seized, imprisoned, and sold into bondage by Southern men. He witnesses this transcendent outrage upon the laws, upon the Constitution, and upon humanity in perfect silence; he does not even hint at their existence. He has seen the agents of Massachusetts driven by mob violence from South Carolina and Louisiana when sent there to sustain the legal rights of the citizens of that State now held in slavery. He knew that no Northern State nor individual could rescue those citizens from the chains of servitude. Upon outrages more aggravated than any that have ever occurred under this Government he makes no comment.

Sir, the House and the country must see that the only sympathy exhibited in the message is for *slavery*; he has none for freedom.

Mr. Chairman, our opposition to the fugitive law is based upon the soundest principles of ethics and of law, as well as the dictates of the common sense of mankind. While the Southern men are thus seizing Northern freemen, enslaving and brutalizing them, they turn round and call on us to leave our employments, give chase, arrest, and return their fugitive slaves. While violating our national compact in its most vital features, they ask us not merely to observe and keep our stipulations, but to go far beyond our covenants to uphold their slavery.

Now, sir, these Southern men have no claim whatever on us to observe the compact, while they disregard and trample upon it. Such are the dictates of law, and of justice, and the teachings of common sense. A compliance with such demand would constitute us the mere subsidiaries, the appendages of Southern slavery. This feeling has thus far been suppressed by our intelligent people, hoping that Congress would relieve them from the position in which they have long been placed. If this fugitive law be kept in force, and Congress shall exert its power and influence to degrade our people, I, sir, will not predict the consequences. They may be read in our past history. One thing may be regarded as admitted truth—while Northern

freemen are held in Southern chains the people of the free States will not arrest nor return fugitive slaves.

The President, continued Mr. Giddings, assures us that the power of the army and navy will be used to shoot down Northern freemen if necessary to enforce this law. This attempt at menace is unworthy of a President. It will be fruitless. He may send his troops—his Swiss guards of slavery; he may drench our free land with blood; he may entitle himself to the appellation of a second "*Haynau*,"¹ but he will *never compel them to obey that law*. They will obey every constitutional enactment; but they will discard and repudiate this fugitive bill.

The President should have learned ere this that public sentiment, with an enlightened and patriotic people, is stronger than armies or navies; that he himself is but the creature of the people's will—their servant—elected to execute their purposes. In the enactment of this law, their feelings were not consulted, their honor was disregarded, and their wishes were treated with scorn. Sir, a large portion of the Northern people were not represented in this body at the passage of that law. Their servants fled from this hall, and left the interests, the rights, and the honor of their constituents to be disposed of by slaveholders and their obsequious allies. This law "was conceived in sin," and literally "brought forth in iniquity." It is due to our Southern friends that we should inform them distinctly that the law *cannot* and *will not* be enforced. Our people, sir, know what constitutes law. This enactment I call a law merely for convenience, because our language furnishes no proper term in which to characterize it. It has the *form*, but is entirely destitute of the spirit—the essence of law. It *commands* the perpetration of crimes, which no human enactment can justify. In passing it, Congress overstepped the limits of civil government, and attempted to usurp powers which belong only to God. In this attempt to involve our people in crimes forbidden by inspiration, by every impulse of humanity, and to command one portion of the people to wage a war upon another, Congress was guilty of tyranny unexampled.

Mr. Giddings declared that the law would be a "dead letter," like many other acts of Congress. It was already ineffectual. Of 15,000 fugitives not 10 had been returned.

Julius Jakob, Baron von Haynau (1786-1853), an Austrian general, had made his name a synonym of cruelty by his rigorous acts in suppressing revolution.

When Mr. Jefferson came into power, he found men imprisoned under the sedition law, which he deemed unconstitutional. He did not hesitate to pardon them. But Mr. Fillmore pledges himself to exert his power to punish every man who assists his fellow man to regain his liberty. Such, sir, is the difference between Mr. Jefferson and Mr. Fillmore.

If there be any one feature of the Constitution, which the whole history of its adoption has made plain, it is that slavery is a *State institution, over which Congress has no control*—with which this Federal Government has no legitimate powers to interfere. We, sir, of the North, will not be constrained, even by your fugitive law, to interfere with it. The slavery of Virginia belongs to her. If she possess the power and the disposition to uphold it, we cannot put it down or abolish it. If she sees fit to abolish it, we have no power to interfere to sustain it.

Neither the law of 1793, nor the Constitution, contemplated the organization of Northern freemen into a constabulary force for catching negroes. Nor did it give the master a guard and assistance to carry back his slave at the *expense of the nation*. Such provisions could never have been approved by Washington, who signed the law of 1793, nor by his associates who had aided in framing the Constitution, and who also voted for that law. They understood their constitutional duties.

The extent of our powers consists in prohibiting the people from interfering between the master and slave. And this fugitive law is unconstitutional to the full extent to which it attempts to exert its powers in aid of slavery. The appointment of officers, making it their duty to issue process, to pursue the slave, to arrest, to carry him back, and the paying expenses from the treasury, all are unconstitutional acts. They, sir, interfere with slavery, and are repugnant to the whole spirit of the Constitution. The President unintentionally condemns these acts. I condemn them, the country condemns them, humanity condemns them.

All who read this message must see that the only interference with slavery which the President professes to deprecate is that which tends to *loosen* the chains of bondage; he appears to have no objection to that interference which rivets them closer. Could he have believed that the intelligent freemen of the North would fail to detect the palpable contradiction between that portion of the message which deprecates interference with slavery, and that which urges the continuance of this law, which was enacted for the very purpose of interfering in support of that institution?

But this law goes further; it not only attempts to strike down God's law, which commands us "to feed the hungry," but it attempts to convert every freeman of the North into a savage. If a fugitive from oppression reaches my door amid the ragings of the storm, half clad, and benumbed with cold, fainting and weary, sick and in distress, and asks to warm himself by my fire, this law interferes, and forbids me, under heavy pains and penalties, to comply with his request. If I obey the law, I must drive him from my door, to perish with hunger and cold. If I receive him to my habitation, warm him by my fire—if I feed him, and give him drink, and restore him, so that he pursues his journey and escapes, I am subjected, under this law, to a fine of one thousand dollars and to six months' imprisonment. This law the President *approves*, and advises us to *continue it in force*. I reply, in his own language: "Every citizen who truly loves the Constitution will resolutely and firmly resist" the interference which this law enjoins.

Sir, our people will continue to feed the hungry, to clothe the naked, to visit the sick, and to relieve the oppressed; and no interference of this fugitive law will prevent this compliance with the dictates of our religion, with that law which came from God himself, and which no enactment of slaveholders and doughfaces can repeal or nullify. I speak for no one but myself and constituents; others will choose whether to obey God or the oppressors of mankind; but, as for us, we will obey that higher law of kindness, benevolence, and humanity, which was implanted in the breast of every human being, and written upon the hearts and consciences of mankind by the finger of our Creator.

The common law holds him who aids in a murder as guilty as he who strikes the knife to the heart of the victim. And will anyone suppose that he who assists in arresting and sending a fugitive slave to torture and death will be less guilty than he under whose lash the victim expires?

Sir, we will not commit this crime. No! The freemen of Ohio will never turn out to chase the panting fugitive; they will never be metamorphosed into bloodhounds, to track him to his hiding-place, and seize and drag him out, and deliver him to his tormentors. They may be shot down; the cannon and bayonet and sword may do their work upon them; they may drown the fugitives in the blood of freemen; but never will freemen stoop to the degradation of catching slaves.

Let no man tell me there is no higher law than this fugitive bill. We feel there is a law of right, a law of justice, of free-

dom, implanted in the breast of every intelligent human being, that bids him look with scorn upon this mis-called law.

The speaker then referred to persons, including ministers of the gospel, who claimed that there was no moral guilt in obeying the law, since the responsibility rested with Congress.

I hesitate not to say that, for its barbarity, that law is unequalled in the history of civilized legislation. Will preachers of righteousness tell them to submit, to let the slave dealer rivet the chains upon the father, tear the mother from her children, and doom her to a life of wretchedness? Will such preachers advise the daughter *peacefully* to surrender herself into the hands of slave hunters and submit to a life of pollution and shame? And will such men be called promoters of *holiness and purity*? I trust there are few such teachers in this American land. Sir, all good men must detest this law. God has no attribute which will permit him to look upon it except with abhorrence.

Yet the President assures us that it ought not to be repealed; that it should be kept in force; that these outrages should and ought to continue; that he regards this law as a *final* settlement of the slave question; and that it is wrong farther to agitate the subject. Vain advice. Agitation will never cease until the law ceases. While such crimes are authorized by statute the American people will not keep silence.

The public meetings of the people of all parties throughout the free States, the spirited resolutions which they have sent forth, are but feeble manifestations of the popular mind. Throughout the North, where free schools have been encouraged, where newspapers circulate and intelligence is disseminated, there public sentiment is loud in condemnation of this law. This feeling is increasing and extending, and rolling forward, and gaining strength and impetus, and will continue to do so until that law shall be repealed and numbered among the things that were.

There is no lingering doubt, no difficulty, no obscurity resting on the party which supports this Administration. All the Whigs throughout the country (and I speak it with some degree of feeling, for I once had the pleasure of acting with them when they had principles; then we avowed and acted upon the doctrines I have stated to-day)—all the Whigs throughout the country must now feel that their unity is gone. They see that the

the Clay compromise, to agree upon a united policy for the South, reassembled with delegates from Virginia, South Carolina, Georgia, Florida, Alabama, Mississippi, and Tennessee. It declared that all the evils anticipated by the South had been realized by the Clay compromise, and therefore it recommended that the South abstain from social, commercial, and political intercourse with the North until Southern rights were rendered safe. It proclaimed that if such a time should not come, and the North, by its violations of the Constitution, endangered the peace and existence of the South, it would have "the right, as States, there being no common arbiter, to secede from the Federal Union."

Governor J. A. Quitman [Miss.] convoked the State legislature for November 18 with the intention of laying before it a proposition for secession. On this date, however, Senator Henry S. Foote [Miss.] addressed a mass meeting at Jackson, the State capital, upholding the compromise so persuasively that the meeting decided in favor of the measure. This was the beginning of a Union party in the State which held in check the "Fire-Eaters," as the secessionists were called. Similar Union parties arose in the other Southern States, and came together in a constitutional Union party, which over-weighed the secessionist sentiment.

In the North efforts were also making to form a Union party on the basis of the compromise. Such an organization in New York came within 258 votes of electing Horatio Seymour governor, Washington Hunt, the Whig candidate, being elected.

On January 22, 1851, Alexander H. Stephens, a Representative from Georgia, drew up a manifesto on the slavery question which was signed by 44 Senators and Representatives, Senator Henry Clay [Ky.] at the head. It inveighed against the renewal at any time of the sectional quarrel, declaring that the subscribers would not support any candidate for a Federal office who did not condemn further agitation of the slavery question.

On February 15, 1851, at Boston a fugitive slave by name Shadrach, while the question of his extradition under the Fugitive Slave law was under discussion be-

party has departed from its doctrines and principles, and has descended, step by step, from its former position until the remnant has literally become a slave-catching party.

I, sir, rejoice at the prospect of seeing every public man, and every elector of the nation, take his position either for freedom or for slavery. The President has come out boldly and manfully on the side of oppression, in favor of compelling the people of the North to become the catchers of Southern slaves. He calls on his friends to take position with him. They will do so. We shall soon have but two political parties. One will contend for the emancipation of the free States and this Government from the control of the slave power; to restore vitality to the Constitution; to give that instrument effect; to maintain the rights of all the States under it; to secure all men under our exclusive jurisdiction in the enjoyment of life, liberty, and happiness. With Gouverneur Morris, and those who assisted in framing the Constitution, that party "*never will concur in upholding domestic slavery.*" With Mr. Gerry, "while they have nothing to do with it in the States, *they will lend no sanction to it.*" With Mr. Sherman, they "*can see no more propriety in seizing and surrendering a fugitive slave than a horse.*"

With these framers of the Constitution the party of freedom will stand. These principles they will maintain and carry out; they will separate and purify themselves from the sin and the shame of slavery; they will redeem this government from its support; they will leave it within the States where it exists. The judgment and conscience of the people are with us! they know our doctrines to be correct. The popular heart beats for freedom. Party prejudices are giving way. Truth is doing its legitimate work. A great political revolution is going forward. No partisan influence can stay its progress. The history of the last few months and years must bear to every reflecting mind a consciousness that the principles of justice, of righteousness, of humanity must triumph. The moral sentiment of the nation demands the repeal of those acts of Congress which authorize and enjoin the commission of crimes. *They will be repealed*, and the Government will be redeemed from its present position; and its laws and influence will be exerted for the benefit, for the elevation, of man.

THE NASHVILLE CONVENTION

On November 14, 1850, a Southern convention which had met at Nashville, Tenn., during the discussion on

fore a commissioner, was forcibly taken from custody by a crowd of negroes, set at liberty, and smuggled safely into Canada. Two days later Henry Clay [Ky.] introduced a resolution in the Senate asking the President for information as to what measures he had taken to enforce the act, and whether, in his opinion, additional legislation on the subject was necessary. On February



PRACTICAL ILLUSTRATION OF THE FUGITIVE SLAVE LAW
From the collection of the New York Historical Society

18 President Fillmore, by the advice of Daniel Webster, Secretary of State, issued a proclamation commanding all military and civil officers, and entreating all citizens, to aid in executing the law. This was followed (February 21) by a special message to Congress in which he pledged himself to use all his constitutional powers to this end. An extended discussion of the message followed in the Senate, participated in by the following supporters of the President: Henry Clay [Ky.], Stephen A. Douglas [Ill.], and John M. Berrien [Ga.]; leading speakers in opposition were John P. Hale [N. H.], Salmon P. Chase [O.], R. Barnwell Rhett

[S. C.], and Jefferson Davis [Miss.]. As a striking illustration of the fact that politics like misery sometimes makes strange bedfellows it will be noted that the two extremes of American statesmen on the slavery question, Southern "Fire-Eaters" such as Rhett and Davis, and Northern anti-slavery men, such as Hale and Chase, here joined in denouncing the Fugitive Slave law as unconstitutional.

STRANGE BEDFELLOWS—"FIRE-EATERS" AND ABOLITIONISTS

DEBATE ON THE FUGITIVE SLAVE LAW, SENATE, FEBRUARY 21-24, 1851

SENATOR HALE.—I am glad that the document which has been read has been sent to us for one reason, and but one. It satisfies me most conclusively that the President thinks and feels pretty sure that he is rendering his Administration ridiculous, and that his proclamation has done it; and he sent us a long labored essay, as I understand it, to vindicate the propriety of what cannot be vindicated. The idea of the President of the United States issuing a formal proclamation, calling upon all the naval and military force of the Government to hold themselves in readiness, and all officers and good citizens everywhere, to defend this great Republic against a handful of negroes in Boston! I do not know how it strikes others, but to my mind it is ridiculous in the extreme; and I am determined, as far as I am concerned, I will have no part nor lot in it.

SENATOR CLAY.—What is the aim of the Senator? To consider this mob as an isolated affair, as an affair of the two or three hundred negroes only. Is there any other man in the Senate who believes that it originated among these negroes? Do we not all know the ramified means which are employed by the Abolitionists openly, by word and by print everywhere, to stimulate these negroes to acts of violence, recommending them to arm themselves and to slay, murder, and kill anybody in pursuit of them in order to recover and call them back to the duty and service from which they had escaped?

The proclamation is not aimed solely at the miserable negroes, who are without the knowledge and without a perfect consciousness of what became them or what was their duty. They are urged on and stimulated by speeches, some of which are made on this floor and in the House of Representatives, and by prints which are scattered broadcast throughout the whole country.

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cision swept the whole of this legislation from the statute books. Then, of course, it became impossible to reclaim fugitives. The decision of the Supreme Court made it impossible, and I believed then, and I believe now, that that decision practically expunged the fugitive servant clause from the Constitution.

And now, sir, what is the particular transaction to which our attention is invoked by the Senator from Kentucky? What is this *nodus Deo vindice dignus*?¹ Why, sir, in Massachusetts, in the city of Boston, it so happened the other day that an individual claimed as a fugitive slave was arrested and taken before a commissioner. In the progress of the investigation fifteen or twenty colored people lingered about the door. These persons, it seems, formed and executed, upon the spot and at the moment, the purpose of rescuing the prisoner. They burst open the door, took the man out, and set him at liberty. There was no organized mob—no general concert of action—the whole affair was confined to the few immediate participants.

Well, sir, what is there strange or unusual in a rescue by force from legal custody? Such infractions of law occur not unfrequently, and in every State. Does it not seem ridiculous to fulminate proclamations and legislation against a few negroes upon an occasion like this? Surely something more than this must be designed. The proclamation and the contemplated legislation must be intended to operate upon the public sentiment of the country, to subjugate the people to the execution of the law. There can be no practical legislation except in two directions. We may provide for the erection of jails; to which no person could object, since Massachusetts has denied, as she had an undoubted right to deny, the use of her prisons for the confinement of persons arrested under national laws. Were there not existing provisions in the statute books authorizing marshals, in such circumstances, to hire temporary places of confinement? We may go further and authorize the President to call out the militia. But I ask Senators to consider where that will end. Call out the militia! March troops to Boston! You cannot prevent the occurrence of such cases as that at Boston by all the military force in the world. You cannot suppress the spirit of the people, unless you are prepared to establish, and the people are ready to receive, a military despotism. Governor Gage tried the experiment of a proclamation upon the people of Boston some seventy-five years ago. It resulted, not in the suppression of public sentiment, but in a revolution. The proclamation of President Fillmore will not, indeed, lead to any out-

The proclamation, then, has higher and greater aims. It aims at the maintenance of the law; it aims at putting down all those who would put down the law and the Constitution, be they black or white.

SENATOR CHASE.—Sir, it seems to me somewhat remarkable that the very Senator [Mr. Clay] who has most vehemently denounced agitation and agitators should himself have furnished the occasion of almost every debate on slavery topics during this session. And yet peace and quiet and harmony were promised us. I have never believed, I do not believe, and, unless the future developments shall convince me of error, I never shall believe that the measures to which the sanction of this body was given at the last session will be productive of quiet and harmony. We have been told here to-day that those measures in the series which the South approved were passed by Southern votes, and those which received the approbation of the North by Northern votes. Well, sir, are quiet and harmony to be expected when the parties who are to form the compromise are neither of them satisfied with its terms? If each party rejects that portion of the compromise which offends its particular section, how can it be considered as a settlement? Sir, it is no settlement. It has none of the attributes of a settlement. This very fugitive slave law, to which the attention of the Senate has now been called, will, of itself, produce more agitation than any other which has ever been adopted by Congress.

Mr. President, here in my place I opposed the passage of this fugitive act. I opposed it for the reason, among others, because I believed that the obligations which the Constitution imposed in respect to fugitives from labor devolved upon the States. I agree with the Senator from Virginia [Mr. Mason] that the clause relating to fugitives from service creates "a federal obligation." And I concur with the Senator from South Carolina [Mr. Butler] in the opinion that it constitutes "a compact between the States." It is a compact to be executed by the States, just as the other compacts in the same article are to be executed in good faith, but each State is to judge of the extent of its own obligations, and of the particular legislation required to fulfill them. Now, sir, let us refer to the state of things some twelve years ago. From the ocean almost to the base of the Rocky Mountains stretched an unbroken chain of State legislation providing for the reclamation of escaping servants. This being the state of affairs, the Supreme Court, in the case of Prigg against Pennsylvania, decided that the States have no constitutional power to legislate upon the subject. That de-

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break; but I feel quite sure that it can do no good. Sir, the ordinary authorities and processes are entirely adequate to every such case as that which has occurred; and it will be useless, and much worse than useless, in my judgment, to clothe the President with any such extraordinary powers as seem to be contemplated by the advocates of this reference. I shall not, however, object to the reference proposed. Let the committee act; and, if Senators think fit to waste any more time of the session upon this matter, let us have their report and another debate. I desire to see, and the country will desire to see, how far it is proposed to go, not in the execution of law by its ordinary processes and officers, but in this strange attempt to suppress discussion, to prevent agitation, to restore peace, tranquillity, and harmony to the country, by the employment of military force!

SENATOR DOUGLAS.—The Senator from Ohio refers to the decision of the Supreme Court of the United States in the case of Prigg vs. the State of Pennsylvania, and says that that decision practically expunged from the Constitution of the United States the clause in relation to the surrender of fugitives from labor. I presume the Senator does not mean that the Supreme Court of the United States intended to expunge it. I presume he does not mean that anything they have said in their decision does expunge it. I presume he does not mean that that decision is in conflict with that provision of the Constitution of the United States. But I understand him to mean that, if it could be held that the Congress of the United States had no right to legislate upon the subject, and that therefore the power was reserved exclusively to the States, the free States of this Union would not execute the law. I understand him to mean that while the Constitution of the United States requires every member of a legislature in every State in the Union to take an oath to support that Constitution; while no man can be a judge, a justice of the peace, a constable, a sheriff, or any other officer under a State government without first taking an oath to support the Constitution of the United States, yet when his constituents—the legislature of his State—have elected him to this body, they may be so recreant to their duties under the Constitution, so false to their God, as to vary from their oath in order to violate the Constitution of the country. That is what I understand him to mean.

SENATOR CHASE.—The decision in the case of Prigg vs. the State of Pennsylvania denies to the legislatures of the States the power to legislate upon this subject. What does the Senator mean when he talks about a State legislature being recreant to

¹ "Knot worthy of a Divine adjudication."
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its public duty and to God, when it simply declines to exercise a power which the decision of the Supreme Court denies to it? I say that, when that decision denied to the legislatures of the States the power to execute this article of the Constitution, it swept from the statute book all State legislation upon the subject; and, inasmuch as it then devolved upon Congress to carry into effect this power, and as those laws must be carried into effect, if at all, by the power and officers of the general Government, it would be, in my judgment, impracticable to execute them so as to give them full effect. I did not intimate, and never intimated, that there would be any organized opposition, publicly sanctioned, to the law; but, in the midst of a reluctant community, every man knows you cannot practically execute a Federal law, such a law as this is, unaided by the officers of the general Government. And, therefore, because that decision devolved upon Congress the duty of legislation which it denied to the States, it did, in my judgment, practically expunge the clause from the Constitution. I respect the judges of the Supreme Court as highly as any man. I believe that they decided the case as they believed the Constitution required. I think, however, and I know that very many intelligent citizens of the slave States concur in the opinion, that the decision was, in its practical effect upon the right of reclamation, an extremely unfortunate one for parties interested in that right.

SENATOR DOUGLAS.—The Senator says that decision practically nullifies the fugitive provision in the Constitution of the United States. How does it practically nullify it? That decision declares that it is the duty of the Congress of the United States to pass laws for carrying into effect that provision of the Constitution. If the Senator had obeyed that decision, and had obeyed the Constitution of the United States according to it, he would have been here the advocate of the fugitive law instead of its enemy, for that would have been his duty under the decision to which he refers. But that decision goes further. It says that the Constitution is imperative, conferring the right to reclaim the slave; that the master has a right to go and reclaim him, and that no citizen has a right to obstruct him. Then how could that decision make that clause of the Constitution a dead letter? How could it expunge that clause from the Constitution, unless the Senator means to intimate that there are men in this country who are prepared to disregard the Constitution—who are prepared to disregard the laws of the land. That decision says that Congress must pass a law to carry the clause of the Constitution into effect. It says that every citizen is

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that they advised it in this particular instance; but I say that any negro who came into possession of speeches made in our presence during the last session would have felt himself authorized and justified, by the express direction of men high in authority, to go and set the Constitution and the laws at defiance. These negroes have only done what their white confederates have prompted them to do. The negro has been put forward as the active instrument, while the instigators had not the moral courage to show themselves in the front rank. When these trials shall come on, when the majesty of the law shall be asserted, when the judgment of the court shall be pronounced, I trust it will fall upon the conspirators themselves; upon the leading, distinguished white men who put them up to it, instead of upon the ignorant, simple-minded, and abused tools and instruments that they use to carry out their designs.

SENATOR BERRIEN.—Sir, if the resistance to this law shall still continue, and the people of the free States shall turn a deaf ear to remonstrances uttered in no spirit of menace and with no feelings of hostility, but with a sincere desire to cultivate and cherish those kindly relations which ought to exist between States thus intimately associated—if these agitations shall continue, and shall result (in the language of the people of Georgia) “in the disruption of every tie which binds her to the Union,” in the destruction of our constitutional charter, and the Union of which it is the guaranty—then, sir, I have to say that the people of Georgia will stand acquitted of all participation in this outrage upon the principles of regulated liberty—this utter prostration of the cherished hopes of the votaries of freedom throughout the world. Giving expression to the feelings of my constituents, I say, to the people of the free States, the fate of the Union is in your hands; uttering their deliberate opinion and adopting their language, I say, “upon the faithful execution of the Fugitive Slave law by the proper authorities depends the preservation of our much-loved Union.”

SENATOR RHETT.—Sir, the law is not always a law. There is no lawyer who does not know that. A law, to have its practical effect, must move in harmony with the opinions and feelings of the community where it is to operate. In this case no one can doubt that the feeling of the whole and entire North—whatever may be their submission to what they may consider to be the supreme law of the land—is opposed to the institution of slavery and opposed to this law. Now, you may multiply officers as much as you please; you may make every ship a prison; you may make every custom house a guard-room; you

bound to aid in its enforcement. If the Senator, and those who act with him, would obey that decision, the fugitives from labor would certainly be sent back according to the Constitution. When the Senator says they will not, he casts an imputation upon the people of the free States of this Union that they disregard the Constitution, disregard their oath to support it, disregard the decisions of the Supreme Court of the United States, and that they will take the law into their own hands and raise the standard of rebellion against the Federal Government. That is what I understand to be the direct and legitimate consequences of the argument which he has made, and it was against that I intended to make my protest. I believe it to be a calumny upon the free States of this Union to say that their sons are not prepared to perform every obligation under the Constitution. I do not believe that the free States of this Union ever sent, or ever will send, four Senators to this Chamber who claim that there is a “law higher” than the Constitution which authorizes them to commit perjury to their God and treason to their country by disobeying the Constitution which they have sworn to support.

I must follow the Senator a few steps further. He can see no necessity for the proclamation of the President. I will not argue that point. He looks upon the matter of the rescue of a fugitive at Boston as an ordinary and a trivial transaction. I do not; and the reason I do not regard it in that light is this: It is well known that there has been a systematic organization throughout many of the free States of this Union to evade the obligations of the Constitution of the United States and to prevent the enforcement of the laws of the United States in relation to fugitive slaves. This organization has been general throughout most of the States, although it does not embrace one in a hundred of the citizens of those States. But it has men of talent, men of genius, men of energy and of daring and of desperate purpose at its head; and the opposition to this fugitive law has been a combined and concerted action. It is in the nature of a conspiracy against the Government. It is a conspiracy to violate the supreme law of the land, to the intent that it shall not be obeyed. I say, therefore, that these conspirators are responsible for all that any of their number may do in resistance to this law. The doctrine of confederates applies to them. Sir, I hold white men now within the range of my sight responsible for the violation of the law at Boston. It was done under their advice, under their teaching, under their sanction, under the influence of their speeches. I do not mean

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may, in all your great central points, make every effort you can for the purpose honestly of enforcing the law; nay, you may have a large majority in all the free States in favor of its enforcement; and yet, if there be a formidable minority that determine upon the defeat of the operation of the law, they can defeat it, and they will defeat it. The recovery of a fugitive slave is not merely the case of a person coming into court. It is not merely a case in which the law should be enforced by courts. The fugitive slave may be concealed or sworn out of court; a thousand artifices and expedients may be resorted to by which the slaveholder will be unable to recapture his slave or the slave, when regained, will be rescued. Although the Government may be perfectly honest in its determination to enforce the law, although you may legislate with the utmost rigor, yet, after all, the statutes may be nothing more than so much waste paper, of no use but to deceive those who are willing to be deceived. As my honorable colleague very correctly said the other day, out of fifteen thousand slaves at the North—and I have seen a statement myself putting the number at thirty thousand—how many have been recaptured? Some fifteen have been taken in eight or nine months; and in every case in which there was any dispute it cost the master more than the worth of the slave.

It is on an examination of these facts that I have come to the conclusion that this law cannot and will not be so enforced as practically to secure the rights of the South. With this conviction I have looked most carefully into this matter since it arose here in debate; and I have come to the conclusion that, from the beginning of the legislation of Congress on this whole subject to this day, we of the South have been wronged and have been made to abandon a better and more efficient remedy which the Constitution provides.

Every man in the free States must be bound, as a party to the constitutional compact, to deliver up to him his slave on his mere “claim.” This is the great, efficient remedy provided in the Constitution for the recovery of fugitive slaves; and, the claim being made, it rested with the State or the State authorities to do one of two things—“deliver up” the slave or pay for him.

As a substitute—and an exclusive substitute—for this peaceable and more efficient redress under the Constitution, Congress has usurped the power of legislating upon this subject. It has undertaken to thrust the powers of the general Government into the matter and secure to us our fugitive slaves.

Sir, I protest against this doctrine. I protest against this usurpation on the part of Congress. It is fatal to the rights of the South. I maintain that, by the Constitution, we have the faith of the States as sovereigns to a compact with us; and that by that compact the government of every free State, every man in every free State, is bound, morally and constitutionally, to aid in the recovery and restoration of our fugitive slaves.

But Congress has determined otherwise, and the Supreme Court has determined otherwise. I have great respect, personally, for the judges of that court. I believe them to be able and upright; but they are men—very fallible men; and I cannot but remember that, in all times, the judiciary of a country has always been on the side of the Government.

I hold in my hand a compendium of their decisions on this subject and their reasons sustaining them. I will not name the judges delivering the decisions, but quote simply the decisions themselves.

"It cannot be doubted," says the court, "that the Constitution requires the delivery of the fugitive 'on claim' of the master; and the natural inference certainly is that the National Government is clothed with appropriate authority and functions to enforce it." This is very cool. It claims power by nature for the general Government—a new source of authority, certainly. I should say that, as the Constitution does not even mention Congress, much less the National Government, the National Government has nothing to do with it. The decision goes on: "The fundamental principle applicable to all cases of this sort would seem to be that, where the end is required, the means are given." Certainly no one will dispute this position. But the question is, has any power over the end (the recovery of fugitive slaves in a State) been given to Congress by the Constitution? "The clause relating to fugitive slaves is found in the National Constitution, and not in that of any State." Here is a reason as original as it is profound. Where should any of the terms of agreement between the States be found but in their constitutional compact? Did the constitution of any nation ever contain its compacts with other nations? How absurd, then, to attempt to argue that because the States did not, because they could not, insert into their separate constitutions their compact concerning fugitive slaves, that therefore Congress has exclusive jurisdiction over it!

"It might well be deemed an unconstitutional exercise of the power of interpretation to insist that the States are bound to provide means to carry into effect the duties of the National Government, nowhere delegated or in-

trusted to them by the Constitution. On the contrary, *the natural*, if not the necessary, conclusion is that the National Government, *in the absence of all possible provisions to the contrary*, is bound, through its own proper departments, legislative, executive, or judicial, as the case may require, to carry into effect all the rights and duties imposed upon it by the Constitution."

Here again the whole question is begged. It is taken for granted that it is the duty of the general Government to enforce the recovery of fugitive slaves. The learned judge declares the powers of the "National Government," not from any specified grants in the Constitution, but "in the absence of all provisions to the contrary." He proceeds:

"If this be so, it would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must *supersede all State legislation upon the subject*, and, by necessary implication, *prohibit it*. For if Congress have a constitutional power to regulate a particular subject, and they actually regulate it in a given manner, and in a certain form, it cannot be that the State legislatures have the right to interfere. Where Congress have an *exclusive power* over a subject it is not competent for State legislation to interfere."

Here is the doctrine by which Congress not only possesses the power of legislating on the subject of fugitive slaves, but all legislation on the part of the States is *prohibited*. The same doctrine is reiterated in another case:

"The right to seize and retake fugitive slaves, and the duty to deliver them up, in whatever State of the Union they may be found, is, under the Constitution, recognized as an absolute, positive right and duty, pervading the whole Union with an equal and supreme force, *uncontrolled and uncontrollable by State sovereignty or State legislation.*"

State sovereignty, which alone, under the Constitution, according to its plain purport, had anything to do with the rendition of fugitive slaves, is thus arbitrarily put aside; and State legislation, the only efficient means of enforcing their recovery, is prohibited.

Sir, I know very well that it will be said that these few remarks tend to support the abolitionists; and I should not at all be surprised if I should consequently be denounced by some of the papers of the country, not very far from Washington, as having a very close understanding with the abolitionists. Such imputations are to be expected. He who would be useful as a statesman must be prepared, as the only efficient means of vindication, to act down and live down all imputations on his motives or policy. I think the abolitionists have their way, ac-

cording to the Constitution as it is construed and administered. I do not think they would be very unwilling that the existing laws should continue without being materially modified or changed. They would infinitely prefer that you should send an army to Boston to enforce them, and thus make our rights under the Constitution incompatible with the independence and sovereignty of the States. Why, you may pass your laws; but a handful of people—it does not require a majority—can baffle your authority in every town in the United States, and thus nullify your law, deride your proclamation, and put your army and navy at defiance. Senators on the other side of the Chamber, not I, are on the side of the abolitionists. Sir, what is the foundation of abolitionism in this Union? It is consolidation. I remember many years since that he who filled the seat I now occupy [Senator Calhoun], and whose shoe-latchets as a statesman I am unworthy to loose, said to the Senator from Massachusetts, now no longer in this body [Mr. Webster], in the great debate that occurred in 1833:

"If the principles you contend for are correct, you will wake up a spirit of abolition in the North; you will make your people believe they are responsible for this institution; and the day that that principle gets into their minds, and that feeling into their hearts, this Union will be at an end. And you yourself will be the very first to feel the effects of the doctrine you are now maintaining by being ostracized and scorned."

Although that great statesman did not live to see the fulfillment of his prophecy, we now see it. Where is the great statesman of Massachusetts in Massachusetts?

The greatest friends of abolition in this country are the consolidationists. They are the fathers of it; they have made it. From their corrupt constructions of the Constitution this hideous monster has arisen, now shaking this Union to its center and, in my opinion, destined to overthrow it.

Sir, what did this Congress do at the last session? Consolidation carried its triumphant career unchecked over the rights and honor of the South, and the rights also of the North. By the compromise, as it was called, you stripped the South, having an equal right in the whole of our vast territories, conquered by us in common with you, of any participation in them. You ignominiously ejected us, but admitted freely not only all the people of the North, but the people of every other land and tongue, even to the convicts of Botany Bay. They are fit to be your compeers in holding that magnificent country; but we—we, your equals in this Confederacy—are spurned and thrust aside. That was one branch of your mighty measures of con-

solidation. And what else did you do? You passed the Fugitive Slave bill, another measure of consolidation, as I humbly conceive, although not injurious to the North. And after you had done this you then cried out: "All hail! here is peace; there is to be no more contention; the lamb and the wolf are to lie down together; satisfaction, and peace, and quietude prevail all over the Union! the South is satisfied, the North is satisfied; we are all satisfied."

Sir, the South has succumbed far beyond what she expected, or anybody else expected, after the solemn commitments she had made. She had resolved that she would resist, at every hazard and to the last extremity, if you perpetrated over her this enormous spoliation of her ejection from California. She has, nevertheless, apparently succumbed—all at least but two States. But the North for whom you plundered us—the North who had triumphed for your consolidation, instead of being satisfied with what she had gained, was dissatisfied with the poor boon the South acquired for the recapture of fugitive slaves. If the Constitution was violated by this law, they should not have complained, for they had more than its equivalent in the unconstitutional appropriation of California and the subjection of the South. Swollen with the arrogance of predominating power, however, they have risen up and said you shall not enforce this law. We see now this singular state of things: While the South—the wronged, the insulted party—is sinking lower and lower the spirit of the North is rising every day and saying, with its accustomed potency, you shall not enforce this law, until at length we are now deliberately debating whether we shall stretch the Union to the utmost tension of its powers to put down their dissatisfaction and resistance.

There is not a mathematical problem in Euclid more clear than this. Just in proportion as you limit the sphere of the operations of the general Government according to the simple purport of the Constitution, in that proportion you strengthen the Union; and just in proportion as you enlarge the sphere of the operations of the general Government by construction, in that proportion you endanger the stability of the Union. Those who adopt the policy of enlarging the powers of the general Government by construction have only to go on, and they will consummate that prediction made by a distinguished statesman on this floor, if it is not done already, that we would soon become, not one people, but a divided people, a people frowning at and hating each other. You have by this course of consolidation destroyed the bond of peace and brotherly love that

has so long united us together. I do not know what other gentlemen may say, but I, for one, can speak for my constituency as to the effect of your legislation upon them. They look upon this Union, in the manner in which the representatives of the North carry out its operations, as a curse rather than a blessing. They deem the course of policy which you have pursued, in your measures of compromise and spoliation, to be inconsistent with their honor and inconsistent with their rights and safety.

One word before I close to my Democratic friends. Sir, I have been a humble follower of that party for more than twenty years. For thirteen years I have been standing up here in Congress endeavoring to bring it back to the original principles upon which it was placed. It was placed there by mighty men. The genius of Jefferson and Madison founded it. It was based not only on principles of policy, but on the fixed and immutable principles of truth and justice. But at the last session of Congress they surrendered to their enemies; they went over in the free States to the consolidationists, in order that together they might spoil the South. They took the honorable Senator from Kentucky as their leader—he who for twenty years has been the leader of the great Federal or Whig party—and an abler leader they have never had or ever will possess. Every step they took under such a leader toward consummating these measures of compromise they strengthened the Federal or consolidation party and weakened themselves. Now where are they? Where are the principles of the Democratic party? They are gone—they are destroyed. The Whig or Federal party is the only party that possesses power in this Union, and those of our Democratic friends who thought proper to cooperate with them in their measures of consolidation of the last Congress must sink into their embraces or sink beneath their feet. There may yet be recuperative power in the country if it could be brought forth; but I have waited here, a watcher of the night, and have looked long and long for the streaks of day. Shall that bright day ever again come, when the Democratic party, chastised by its errors and disciplined by defeat, shall again be clothed in its ancient armor and fighting for their principles, and the noble faith of the Constitution once more mount to victory? I fear not. I fear they are gone, gone forever; and that this Union will soon come to an end, under the mighty sweep of the free States, with the consolidation principles which they have ever advocated and enforced. The wheel is destined to roll on, crushing beneath its weight interest

extreme doctrines upon the subject of slavery and considers that institution as a blessing, and the honorable Senator from Ohio [Mr. Chase], who holds directly opposite opinions, both unite in expressing the opinion that there is no power in the Congress of the United States to pass the Fugitive Slave law, and that Washington and all of us, from the commencement of the Government down to this time, have been wrong; that the Supreme Court has been wrong, and that the Congress of 1793 were wrong. Yet the colleague of the Senator from South Carolina, I believe, originally introduced the bill, and it was perfected by the Senator from Virginia [Mr. Mason].

The Senator from South Carolina says the more you limit the Constitution the more you add strength to it. Then, I suppose, if all the powers of the Government are to be taken away in this process of limitation, it would make the Union stronger. He says the more you stretch the Constitution the more you increase the danger to the perpetuity of the Union. But who is to decide the question of stretching the powers of the Constitution, and of limiting them? What man, mortal, fallible, weak, erring man, can get up here and say the Constitution means this or that, and all others who give it a different interpretation are traitors, consolidationists, Whigs, or Federalists? I have never heard a man get up here and talk about his being a State rights man emphatically and exclusively, *per se*, a Simon Pure, that I did not feel those emotions which Junius describes whenever he saw a Scotchman smile. [Laughter.] The honorable Senator from Ohio and others who concur with him in opinion anticipated a vast and boundless fund of agitation if the compromise measures were passed. Instead of that, peace has been produced to an extent surpassing even my most sanguine anticipations. There was one exception. It was predicted by myself and others, at least, that the ultra abolitionists would not be tranquilized; that they would go on and agitate; and they would denounce the existence of the Union. Did the Senator suppose we had undertaken the herculean task of pacifying his friends, or at least those who think with him on the general subject of abolition?

SENATOR CHASE.—Does the Senator mean to enumerate me among those who ever expressed a wish for the dissolution of the Union?

SENATOR CLAY.—No, sir; I only mean to say that the Senator is in bad company. [Laughter.] If the Senator will disavow and repudiate the abolitionists of all shades and colors, I should be truly happy to hear him.

after interest, all faith, brotherhood, and peace, until the whole fabric falls, a vast pile of ruin and desolation.

SENATOR CLAY.—The speech of the Senator reminds me of a remark of the late Chief Justice of the United States, when a learned counsel from one of the distant States began to argue, and went as far back as the Flood, laying down certain fundamental rules of the law which he thought essential to be known by the Supreme Court. With that blandness and mildness that characterized that illustrious man, he said: "Why, Mr. Counsel, I really think there are some things which this court may be presumed to understand." The whole difficulty with the Senator and his school is that they undertake to say what are the granted powers, and what is and what is not necessary to carry into effect the granted powers. And if all others do not concur with them they are consolidationists, Federalists, Whigs, precipitating the country into ruin. They dispose of all precedent. What is a precedent? A precedent is the deliberate judgment of a court or a deliberative body upon questions which arise before that court or before that body. It is the opinion of the court or of the body upon the subject matter which is before them. It is, therefore, always entitled to respect, and he who sets aside precedents, he who rejects them all, says, in substance, I am wiser than all men who have pronounced these opinions and established these precedents, and therefore I pay no respect to them. During the last week I heard a Senator, who is not now in his place, I believe, reject in one general mass all precedents upon a particular subject, and immediately afterward shelter himself behind the opinion of the illustrious and lamented Senator from South Carolina [Mr. Calhoun], which he thought was superior to all other opinions and all other precedents. So it is with the whole school. They will tell you that the Supreme Court of the United States know nothing about the Constitution; that Congress has been violating it from 1793 down to this day. But if they can find an opinion of the lamented individual to whom I have referred, sanctioning their views, why it is worth all the precedents and the opinions of the Washingtons, Jeffersons, Madisons, Monroes, and all the other Presidents of the United States. The learned Senator has contended that there was no power in the Government of the United States to pass the fugitive slave law. It is not among the most remarkable features of the times that there are certain coincidences between extremes in this body and in the country. The honorable Senator from South Carolina, who, I believe, holds

SENATOR CHASE.—I do disavow most emphatically all association or connection with any class of persons who desire the dissolution of this Union. I say now, as I said at the last session, that "we of the West are in the habit of looking upon this Union as we look upon the arch of heaven; without a thought that it can ever decay or fall." I am aware that there are some abolitionists or anti-slavery men—names are of little consequence—who regard the Constitution as at war with moral obligation and the supreme law. I am not of them. But if the Senator, when denouncing abolitionists, means to include in his reproaches all those citizens who, within the limits of constitutional obligation, seek to rescue this Government from all connection with slavery, I can claim no exemption. I am one of those who mean to exercise all legitimate constitutional power to restrict slavery within the limits of the slave States, and in all places under the exclusive jurisdiction of the National Government to maintain every person, of whatever race or origin, in the enjoyment of personal freedom. That is my position.

SENATOR DAVIS.—If the action of the negro mob in the city of Boston be sustained and adopted by the State of Massachusetts; if she has resolved to cast off the obligation of the Constitution and to absolve herself from the duties which devolve upon her as a member of the Union, then she is, of her own free will and sovereign act, virtually out of it. I, for one, will never give a dollar to coerce her back. In saying this I make no special attack upon that State. I attack no State. Though those with whom I am most identified have suffered most grievous wrongs from the State of Massachusetts; though she has been in the lead in that agitation, the object of which has been to deprive us of our property, still I remember the earlier and more glorious portions of her history. Still, if I could have the faintest ray of hope, I would say, despite my wrongs, I love thee still. If we can only have such a ray of hope furnished by the action of the Governor of that State; if he, with the militia of Massachusetts, will put down the mob and enforce the laws made under the Constitution, how much better, more peaceful, efficient, and permanent it would be than any remedy applied by the army and navy. And I reject the idea of the coercion of the State by the power of the Federal Government. If the State will not act thus, it can only be said she has dissolved the bonds that connected her to the other States by repudiating the Constitution. If so, I say let her go—go in peace, go in good will, go with all the kind and proud remembrances which cluster about her early history; go, if she will not

maintain her obligations to the Constitution, as becomes a sovereign State and an equal member of the Union.

I know, Mr. President, that this doctrine which I entertain of the freedom of the State from coercion by the Federal Government will be by some identified with the doctrine of nullification, to which it bears no resemblance. I deny the power of Massachusetts to nullify the law and remain in the Union. But I concede to her the right, I am willing she should exercise it, if she deliberately desires it, to retire from the Union—to take the “extreme medicine,” secession.

When I become convinced that this Union solely depends for its preservation on the measures which politicians may suggest, I shall look upon its days as numbered. The charm which invests and binds it with far greater force than bands of brass and steel must have been dissolved, and the efforts of any puny arm to forge fetters to replace the magic power which had passed away would only provoke contempt if it did not heighten the catastrophe. This Union is held together by historical associations and national pride. It is held together by mutual attachments and common interests. It is held together by social links, from the fact that fathers and sons, mothers and daughters, brothers and sisters, and boyhood friends, live in extreme ends of the Union. These States are held together by so many unseen, close, and daily increasing points of contact that it can be rent in twain only by something which loosens these rivets, and permits the use of a lever as powerful as that which has been recently introduced. When it depends upon politicians to manufacture bonds to hold the Union together, it is gone—worthless as a rope of sand.

The Southern Rights Association of South Carolina held a convention in Charleston early in May, 1851, and passed resolutions declaring that the State would not submit to injustice from the Federal Government, and would “relieve herself therefrom whether with or without the coöperation of the other Southern States,” and calling for a “Secession Congress” of those States, which call was ratified by the State legislature. The other Southern States did not respond, and the Virginia legislature expressly declined to take any steps which should endanger the Union, and strongly warned South Carolina to desist from her course. A reaction took place in South Carolina, and at the October election of

delegates in that State to the Secession Congress the secessionists were completely defeated. During the same month the Union party in Mississippi elected Henry S. Foote governor over the secession candidate, Jefferson Davis, by 999 votes, after a campaign in which the two candidates debated with each other in meetings held throughout the State. Even Davis was only a moderate secessionist, holding that, so long as a State was in the Union, it had no right to nullify a Federal law.

During May and June, 1851, Daniel Webster, Secretary of State, made a speaking tour through New York and Virginia, defending in brilliant oratory the Fugitive Slave law, yet unintentionally giving evidence of its ineffectiveness by his denunciation of its defiance by Massachusetts, Ohio, and other Northern States.

The reply to Webster by Massachusetts and Ohio was the election to the Senate by the former State of Charles Sumner, an even more radical anti-slavery man than his colleague, John Davis, and by the latter State of Benjamin Wade, equally as fervent in the cause as his colleague, Salmon P. Chase.

On August 26 Senator Sumner established his reputation as the leading orator of the anti-slavery cause by a long and brilliant speech in which he declared “Freedom National and Slavery Sectional.” It was replied to by George E. Badger [N. C.]. As the argument of the debate is abstract, being only incidentally connected with the Fugitive Act, it has been omitted.

In his annual message at the opening of Congress on December 2, 1851, President Fillmore referred as follows to the Fugitive Slave law:

ENFORCEMENT OF THE FUGITIVE SLAVE LAW

PRESIDENT FILLMORE

The act of Congress for the return of fugitives from labor is one required and demanded by the express words of the Constitution. This injunction of the Constitution is as peremptory and as binding as any other. Some objections have been urged against the details of the act for the return of fugitives

from labor; but it is worthy of remark that the main opposition is aimed against the Constitution itself, and proceeds from persons and classes of persons, many of whom declare their wish to see that Constitution overturned. They avow their hostility to any law which shall give full and practical effect to this requirement of the Constitution. Fortunately, the number of these persons is comparatively small, and is believed to be daily diminishing, but the issue which they present is one which involves the supremacy and even the existence of the Constitution.

Cases have heretofore arisen in which individuals have denied the binding authority of acts of Congress, and even States have proposed to nullify such acts, upon the ground that the Constitution was the supreme law of the land, and that those acts of Congress were repugnant to that instrument; but nullification is now aimed, not so much against particular laws as being inconsistent with the Constitution as against the Constitution itself; and it is not to be disguised that a spirit exists and has been actively at work to rend asunder this Union, which is our cherished inheritance from our revolutionary fathers.

CHAPTER VII

REPEAL OF THE MISSOURI COMPROMISE

President Pierce's Inaugural—His Allusion to the Finality of the Compromise of 1850—The Platte Country—Proposal to Organize It as the Territory of Nebraska—Stephen A. Douglas [Ill.] Introduces Bill in the Senate to This Effect—His Report on the Bill Questions Validity of the Missouri Compromise—Debate on the Bill: in Favor, Douglas, Archibald Dixon [Ky.], George E. Badger [N. C.], Andrew P. Butler [S. C.]; Opposed, Salmon P. Chase [O.], Charles Sumner [Mass.], William H. Seward [N. Y.], Benjamin Wade [O.]—Bill Is Passed—Douglas Justifies His Action in Speech at Springfield, Ill.—Abraham Lincoln Replies to Him.

BY the overwhelming election of Franklin Pierce to the presidency the Whig party received a mortal blow and its disintegration was only a matter of a few years. During the campaign it had lost its greatest leaders by death, Henry Clay passing away on



GREAT FOOT-RACE FOR THE PRESIDENTIAL PURSE (\$100,000 AND PICKINGS)
OVER THE UNION COURSE, 1852
From the collection of the New York Historical Society

June 29, 1852, and Daniel Webster on October 23, 1852. There now began the political division on the issue of slavery, which these great compromises had sought to avoid. More than any other it was a woman, Harriet Beecher Stowe, who made the issue inevitable, her great anti-slavery novel, "Uncle Tom's Cabin," published in 1851-52, furnishing the chief wedge that was to cleave the country in two during the coming Administrations.

So great was the curiosity to hear what position the new and comparatively unknown President would take on the slavery question, which, though it had been taken out of the campaign, so far as possible, by the Whig and Democratic conventions, still remained the burning issue of the period, that a greater crowd than had ever before assembled in Washington flocked to the capital on March 4, 1853, to hear the inaugural address.

SLAVERY A CONSTITUTIONAL RIGHT

PRESIDENT PIERCE

To every theory of society or government, whether the offspring of feverish ambition or of morbid enthusiasm, calculated to dissolve the bonds of law and affection which unite us, I shall interpose a ready and stern resistance. I believe that involuntary servitude, as it exists in different States of this confederacy, is recognized by the Constitution. I believe that it stands like any other admitted right, and that the States where it exists are entitled to efficient remedies to enforce the constitutional provisions. I hold that the laws of 1850, commonly called the "compromise measures," are strictly constitutional, and to be unhesitatingly carried into effect. I believe that the constituted authorities of this Republic are bound to regard the rights of the South in this respect as they would view any other legal and constitutional right, and that the laws to enforce them should be respected and obeyed, not with a reluctance encouraged by abstract opinions as to their propriety in a different state of society, but cheerfully, and according to the decisions of the tribunal to which their exposition belongs. Such have been and are my convictions, and upon them I shall act. I fervently hope that the question is at rest, and that no sectional, or ambitious, or fanatical excitement may

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of those from Missouri, opposed the measure stoutly. It was, however, passed by the House on February 10 by a vote of 98 to 43. It then went to the Senate, where it was reported by Stephen A. Douglas [Ill.], chairman of the Committee on Territories, on February 11. On March 2 it was laid on the table by a vote of 23 to 17, every Southern Senator but those from Missouri voting in the affirmative. David R. Atchison, from that State, a strong pro-slavery man, clearly intimated that he was voicing the will of his constituents rather than of himself by his vote, and that it was the policy of the South to delay the organization of the Territory until some counterpoise could be found, such as the partition of Texas into several slave States and Territories.

The bill was brought before the Senate of the next Congress on December 14, 1853, by Augustus C. Dodge [Ia.], and was referred to the Committee on Territories, from which Senator Douglas reported it on January 4, 1854, with certain amendments, none of which, however, touched the question of slavery. Nevertheless, Senator Douglas's report on the bill questioned the validity of the 8th section in the Missouri Compromise, which prohibited slavery north of 36 degrees 30 minutes north latitude. The report said:

"Under this section, as in the case of the Mexican law in New Mexico and Utah, it is a disputed point whether slavery is prohibited in the Nebraska country by *valid* enactment. The decision of this question involves the constitutional power of Congress to pass laws prescribing and regulating the domestic institutions of the various Territories of the Union. In the opinion of those eminent statesmen who hold that Congress is invested with no rightful authority to legislate upon the subject of slavery in the Territories, the 8th section of the act preparatory to the admission of Missouri is null and void; while the prevailing sentiment in large portions of the Union sustains the doctrine that the Constitution of the United States secures to every citizen an inalienable right to move into any of the Territories with his property, of whatever kind and description, and to hold and enjoy the same under the sanction of law. Your committee do not feel themselves called upon to enter upon the discussion of these controverted questions. They in-

again threaten the durability of our institutions or obscure the light of our prosperity.

THE NEBRASKA BILL

The hope of the President was quickly to be destroyed, and that by his own consent and even connivance.

West of Missouri and Iowa and extending to the Rocky Mountains was a great plain called, from the chief river which traversed it, the "Platte country." The eastern portion alone was considered desirable for habitation, and this consisted largely of Indian reservations upon which, as late as 1850, whites had been forbidden to settle. Although the Platte country was traversed by two great highways to the Far West, the Santa Fé and Oregon trails, no emigrants stopped to settle the semi-arid central and western portions which now, as a result of cultivation and irrigation, are flourishing agricultural regions.

By the terms of the Missouri compromise this entire country had been dedicated to freedom. Nevertheless the pact had been broken in part in 1836, when a strip of land along the Missouri frontier was added to that State (so quietly that little notice of the annexation was taken at the time), and six counties were formed of it wherein slavery was introduced.

In the Congress of 1851-52 petitions were presented from the sparse population of the western portion for a territorial organization of the country. No action, however, was taken, until the next session, when, on December 13, 1852, Willard P. Hall [Mo.] submitted in the House of Representatives a bill organizing the Territory of Platte, comprising the whole region. This was referred to the Committee on Territories, and, on February 2, 1853, William A. Richardson [Ill.], of the committee, reported a bill organizing the region under the name of the Territory of Nebraska. While the bill did not mention slavery, nevertheless the restriction against it in the Missouri Compromise was implied, and therefore the Southern Representatives, with the exception

volve the same grave issues which produced the agitation, the sectional strife, and the fearful struggle of 1850. As Congress deemed it wise and prudent to refrain from deciding the matters in controversy then, either by affirming or repealing the Mexican laws, or by an act declaratory of the true intent of the Constitution, and the extent of the protection afforded by it to slave property in the Territories, so your committee are not prepared to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the 8th section of the Missouri act, or by any act declaratory of the meaning of the Constitution in respect to the legal points in dispute."

Nevertheless, near the close the report said:

"From these provisions it is apparent that the compromise measures of 1850 affirm and rest upon the following proposition: 'That all questions pertaining to slavery in the Territories and the new States to be formed therefrom are to be left to the decision of the people residing therein, by their appropriate representatives, to be chosen by them for that purpose.'"

The bill thus reported was soon after, on Mr. Douglas's motion, recommitted, and on the 23d reported again by him from his Committee on Territories, with material alterations. For, meantime (on January 16, 1854), Archibald Dixon [Ky.] had given due notice that, whenever this bill should come up, he would offer the following amendment:

"That the 8th section of the Missouri compromise shall not be so construed as to apply to the Territory contemplated by this act, or to any other Territory of the United States; but that the citizens of the several States or Territories shall be at liberty to take and hold their slaves within any of the Territories or States to be formed therefrom, as if the said act, entitled as aforesaid, and approved as aforesaid, had never been passed."

This blunt proposition, says Horace Greeley in his "American Conflict," that the Missouri Compromise, in so far as its stipulations favored the consecration of the Territories to free labor, be utterly repudiated, now

that so much of it as strengthened slavery had taken full and vigorous effect, was received with more surprise than satisfaction by the engineers of the original measure. The *Union*, then the Democratic organ at Washington, promptly denounced it as a Whig device to divide and disorganize the Democratic party. It received no hearty welcome from any quarter—certainly none from Senator Douglas, or any supporter of his Presidential aspirations. It had evidently been expected by them that his proposal to organize these territories, so expressly contemplated and covered by the inhibition of bondage contained in the Missouri act, in blank silence on the subject of slavery, would be deemed a concession to Southern prejudices, if not to Southern interests. Yet, in the presence of this bolder, stronger, larger, and more practical concession, that of Senator Douglas dwindled by contrast into insignificance.

Senator Douglas, thus outbid, resolved to start afresh. On the 23d aforesaid he reported from his committee a bill so different from its predecessor as hardly to resemble it, save that it contemplated the same region. Instead of one Territory, to be called Nebraska, and stretching from the parallel of 36 degrees 30 minutes north latitude on the south to that of 43 degrees 30 minutes on the north, and from the western boundary of Missouri and Iowa on the east to the crests of the Rocky Mountains on the west, he now proposed to create two Territories, one to be composed of so much of said region as was directly west of the State of Missouri, to be known as Kansas, the other to comprise the residue and be known as Nebraska. And, with reference to slavery, the new bill contained these provisions:

"Sec. 21. That, in order to avoid all misconception, it is hereby declared to be the true intent and meaning of this act, so far as the question of slavery is concerned, to carry into practical operation the following propositions and principles, established by the compromise measures of 1850, to wit:

"First. That all questions pertaining to slavery in the Territories and in the new States to be formed therefrom are to be left to the decision of the people residing therein, through their appropriate representatives.

the compromise act of 1850 as our guide, and intended to make each and every provision of the bill accord with those principles. Those measures established and rest upon the great principle of self-government—that the people should be allowed to decide the questions of their domestic institutions for themselves, subject only to such limitations and restrictions as are imposed by the Constitution of the United States, instead of having them determined by an arbitrary or geographical line.

The original bill reported by the committee, as a substitute for the bill introduced by the Senator from Iowa [Mr. Dodge], was believed to have accomplished this object. The amendment which was subsequently reported by us was only designed to render that clear and specific which seemed, in the minds of some, to admit of doubt and misconception. In some parts of the country the original substitute was deemed and construed to be an annulment or a repeal of what has been known as the Missouri compromise, while in other parts it was otherwise construed. As the object of the committee was to conform to the principles established by the compromise measures of 1850, and to carry those principles into effect in the Territories, we thought it was better to recite in the bill precisely what we understood to have been accomplished by those measures, viz: That the Missouri compromise, having been superseded by the legislation of 1850, has become inoperative, and hence we propose to leave the question to the people of the States and the Territories, subject only to the limitations and provisions of the Constitution.

Senator Douglas, having explained the bill, referred to aspersions that had been cast on the committee for its action, particularly in an article in the *Abolition paper*, the *National Era*, which was signed by Senator Salmon P. Chase, Senator Charles Sumner, Representative Joshua R. Giddings, and other anti-slavery statesmen. He read part of the article:

"We arraign this bill as a gross violation of a sacred pledge; as a criminal betrayal of precious rights; as part and parcel of an atrocious plot to exclude from a vast unoccupied region emigrants from the Old World, and free laborers from our own States, and convert it into a dreary region of despotism, inhabited by masters and slaves."

Then speaking of the Committee on Territories, these confederates use this language:

"Second. That 'all cases involving title to slaves' and 'questions of personal freedom' are referred to the adjudication of the local tribunals, with the right of appeal to the Supreme Court of the United States.

"Third. That the provisions of the Constitution and laws of the United States, in respect to fugitives from service, are to be carried into faithful execution in all the 'organized Territories,' the same as in the States."

Proceeding to that section which provides for the election of a delegate to Congress from Kansas, instead of the original stipulation—

"That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory as elsewhere in the United States"—

the following important reservation was now added:

"Except the section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which was superseded by the principles of the legislation of 1850, commonly called the compromise measures, and is declared inoperative."

The section which authorized Nebraska to send a delegate was amended in precisely the same manner.

The amended bill thus reported by Senator Douglas was debated at length by Senators Douglas, Dixon, James C. Jones [Tenn.], George E. Badger [N. C.], Andrew P. Butler [S. C.], and several others in favor, and Senators Salmon P. Chase [O.], Charles Sumner [Mass.], William H. Seward [N. Y.], Benjamin Wade [O.], and others, in opposition.

REPEAL OF THE MISSOURI COMPROMISE

SENATE, JANUARY 30, 1854

SENATOR DOUGLAS.—Upon the question of slavery in the Territories, the committee took the principles established by

"The pretenses, therefore, that the Territory, covered by the positive prohibition of 1820, sustains a similar relation to slavery with that acquired from Mexico, covered by no prohibition except that of disputed constitutional or Mexican law, and that the compromises of 1850 require the incorporation of the pro-slavery clauses of the Utah and New Mexico bill in the Nebraska act, are mere inventions, designed to cover up from public reprobation meditated bad faith."

Again:

"Servile demagogues may tell you that the Union can be maintained only by submitting to the demands of slavery."

Then there is a postscript added, equally offensive to myself, in which I am mentioned by name. The address goes on to make an appeal to the legislatures of the different States, to public meetings, and to ministers of the Gospel in their pulpits, to interpose and arrest the vile conduct which is about to be consummated by the Senators who are thus denounced. That address, sir, bears date Sunday, January 22, 1854. Thus it appears that on the holy Sabbath, while other Senators were engaged in attending divine worship, these abolition confederates were assembled in secret conclave, plotting by what means they should deceive the people of the United States and prostrate the character of brother Senators. This was done on the Sabbath day, and by a set of politicians, to advance their own political and ambitious purposes, in the name of our holy religion.

But this is not all. It was understood from the newspapers that resolutions were pending before the legislature of Ohio, proposing to express their opinions upon this subject. It was necessary to hasten the action of the Ohio legislature, under a misapprehension, to state that it was signed, not only by the abolition confederates, but by the whole Whig representation, and a portion of the Democratic representation in the other House from the State of Ohio.

SENATOR CHASE.—Mr. President, the Senator misstates the facts—

SENATOR DOUGLAS.—Sir, if the Senator does interpose, in violation of the rules of the Senate, to a denial of the fact, it may be that I shall be able to nail that denial, as I shall the statements here which are over his own signature, as a base falsehood, and prove it by the solemn legislation of this country.

SENATOR CHASE.—I call the Senator to order.

The VICE-PRESIDENT.—The Senator from Illinois is certainly out of order.

SENATOR DOUGLAS.—Then I will only say that I shall confine myself to this document, and prove its statements to be false by the legislation of the country. Certainly that is in order.

SENATOR CHASE.—You cannot do it.

SENATOR DOUGLAS.—The argument of this manifesto is predicated upon the assumption that the policy of the Fathers of the Republic was to prohibit slavery in all the territory ceded by the old States to the Union and made United States territory, for the purpose of being organized into new States. I take issue upon that statement.

The Senator here stated that in the organization of the Territories of Mississippi, Louisiana, and Missouri slavery was not restricted.

This continued to be the condition of the country in the Missouri Territory up to 1820, when the celebrated act which is now called the Missouri compromise act was passed. Slavery did not exist in, nor was it excluded from, the country now known as Nebraska. There was no code of laws upon the subject of slavery either way: First, for the reason that slavery had never been introduced into Louisiana and established by positive enactment. It had grown up there by a sort of common law, and been supported and protected. When a common law grows up, when an institution becomes established under a usage, it carries it so far as that usage actually goes and no further. If it had been established by direct enactment, it might have carried it so far as the political jurisdiction extended; but, be that as it may, by the act of 1812, creating the Territory of Missouri, that Territory was allowed to legislate upon the subject of slavery as it saw proper, subject only to the limitations which I have stated; and the country not inhabited or thrown open to settlement was set apart as Indian country, and rendered subject to Indian laws. Hence the local legislation of the State of Missouri did not reach into that Indian country, but was excluded from it by the Indian code and Indian laws. The municipal regulations of Missouri could not go there until the Indian title had been extinguished and the country thrown open to settlement. Such being the case, the only legislation in existence in Nebraska Territory at the time that the Missouri act was passed, namely, the 6th of March, 1820, was a provision in effect that the people should be allowed to do as they pleased upon the subject of slavery.

applying for admission into this Union; but it was necessary to preserve the principle of the Missouri compromise line in order that it might afterward be extended; and it was supposed that, while Congress had no power to impose any such limitation, yet, as that was a compact with the State of Texas, that State could consent for herself that, when any portion of her own territory, subject to her own jurisdiction and control, applied for a constitution, it should be in a particular form; but that provision would not be binding on the new State one day after it was admitted into the Union. The other provision was that such States as should lie south of 36° 30' should come into the Union with or without slavery, as each should decide in its constitution. Then, by that act, the Missouri compromise was extended indefinitely westward, so far as the State of Texas went, that is, to the Rio del Norte; for our Government at the time recognized the Rio del Norte as its boundary. We recognized it in many ways, and among them by even paying Texas for it, in order that it might be included in and form a portion of the Territory of New Mexico.

Then, sir, in 1848 we acquired from Mexico the country between the Rio del Norte and the Pacific Ocean. Immediately after that acquisition the Senate, on my own motion, voted into a bill a provision to extend the Missouri compromise indefinitely westward to the Pacific Ocean, in the same sense and with the same understanding with which it was originally adopted. That provision passed this body by a decided majority and went to the House of Representatives, and was there defeated by Northern votes.

Now, sir, let us pause and consider for a moment. The first time that the principles of the Missouri compromise were ever abandoned, the first time they were ever rejected by Congress, was by the defeat of that provision in the House of Representatives in 1848. By whom was that defeat effected? By Northern votes, with Free-Soil proclivities. It was the defeat of that Missouri compromise that reopened the slavery agitation with all its fury. It was the defeat of that Missouri compromise that created the tremendous struggle of 1850. It was the defeat of that Missouri compromise that created the necessity for making a new compromise in 1850. Had we been faithful to the principles of the Missouri compromise in 1848, this question would not have arisen. Who was it that was faithless? I undertake to say it was the very men who now insist that the Missouri compromise was a solemn compact, and should never be violated or departed from. Every man who is now assailing

The Territory of Missouri having been left in that legal condition, positive opposition was made to the bill to organize a State government, with a view to its admission into the Union; and a Senator from my State, Mr. Jesse B. Thomas, introduced an amendment, known as the eighth section of the bill, in which it was provided that slavery should be prohibited north of 36° 30' north latitude, in all that country which we had acquired from France. What was the object of the enactment of that eighth section? Was it not to go back to the original policy of prescribing boundaries to the limitation of free institutions, and of slave institutions, by a geographical line, in order to avoid all controversy in Congress upon the subject? Hence they extended that geographical line through all the territory purchased from France, which was as far as our possessions then reached. It was not simply to settle the question on that piece of country, but it was to carry out a great principle, by extending that dividing line as far west as our territory went, and running it onward on each new acquisition of territory. True, the express enactment of the eighth section of the Missouri act, now called the Missouri compromise act, only covered the territory acquired from France; but the principles of the act, the objects of its adoption, the reasons in its support, required that it should be extended indefinitely westward, so far as our territory might go, whenever new purchases should be made.

Thus stood the question up to 1845, when the joint resolution for the annexation of Texas passed. There was inserted in that a provision, suggested in the first instance and brought before the House of Representatives by myself, extending the Missouri compromise line indefinitely westward through the Territory of Texas. Why did I bring forward that proposition? Why did the Congress of the United States adopt it? Not because it was of the least practical importance, so far as the question of slavery within the limits of Texas was concerned, for no man ever dreamed that it had any practical effect there. Then why was it brought forward? It was for the purpose of preserving the principle, in order that it might be extended still further westward, even to the Pacific Ocean, whenever we should acquire the country that far.

It will be seen that the joint resolution for the annexation of Texas contains a very remarkable provision, which is that, when States lying north of 36° 30' apply for admission, slavery shall be prohibited in their constitutions. I presume no one pretends that Congress could have power thus to fetter a State

the principle of the bill under consideration, so far as I am advised, was opposed to the Missouri compromise in 1848. The very men who now arraign me for a departure from the Missouri compromise are the men who successfully violated it, repudiated it, and caused it to be superseded by the compromise measures of 1850. Sir, it is with rather bad grace that the men who proved false themselves should charge upon me and others, who were ever faithful, the responsibilities and consequences of their own treachery.

Then, sir, as I before remarked, the defeat of the Missouri compromise in 1848 having created the necessity for the establishment of a new one in 1850, let us see what that compromise was.

The leading feature of the compromise of 1850 was congressional non-intervention as to slavery in the Territories; that the people of the Territories and of all the States were to be allowed to do as they pleased upon the subject of slavery, subject only to the provisions of the Constitution of the United States.

That, sir, was the leading feature of the compromise measures of 1850. Those measures, therefore, abandoned the idea of a geographical line as the boundary between free States and slave States; abandoned it because compelled to do it from an inability to maintain it; and, in lieu of that, substituted a great principle of self-government which would allow the people to do as they thought proper. Now, the question is, when that new compromise, resting upon that great fundamental principle of freedom, was established, was it not an abandonment of the old one—the geographical line? Was it not a superseding of the old one within the very language of the substitute for the bill which is now under consideration? I say it did supersede it, because it applied its provisions as well to the north as to the south of 36° 30'. It established a principle which was equally applicable to the country north as well as south of the parallel of 36° 30'—a principle of universal application.

In order to refute the presumption that the Missouri compromise was abandoned and superseded by the principles of the compromise of 1850, these confederates cite the following amendment, offered to the bill to establish the boundary of Texas and create the Territory of New Mexico in 1850:

"Provided, That nothing herein contained shall be construed to impair or qualify anything contained in the third article of the second section of the joint resolution for annexing Texas to the United States, approved March 1, 1845, either as regards the number of States that may hereafter be formed out of the State of Texas or otherwise."

After quoting this proviso, they make the following statement, and attempt to gain credit for its truth by suppressing material facts which appear upon the face of the same statute, and, if produced, would conclusively disprove the statement:

"It is solemnly declared in the very compromise acts 'that nothing herein contained shall be construed to impair or qualify' the prohibition of slavery north of 36° 30'; and yet, in the face of this declaration, that sacred prohibition is said to be overthrown. Can presumption further go!"

I will now proceed to show that presumption could not go further than is exhibited in this declaration.

They suppress the following material facts, which, if produced, would have disproved their statement: They first suppress the fact that the same section of the act cuts off from Texas and cedes to the United States all that part of Texas which lies north of 36° 30'. They then suppress the further fact that the same section of the law cuts off from Texas a large tract of country on the west, more than three degrees of longitude, and adds it to the territory of the United States. They then suppress the further fact that this territory thus cut off from Texas, and to which the Missouri compromise line did apply, was incorporated into the Territory of New Mexico. And then what was done? It was incorporated into that Territory with this clause:

"That, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of its adoption."

Yes, sir, the very bill and section from which they quote cuts off all that part of Texas which was to be free by the Missouri compromise, together with some on the south side of the line, incorporates it into the Territory of New Mexico, and then says that that Territory, and every portion of the same, shall come into the Union with or without slavery, as it seen proper.

Now, I ask those Senators, do not those provisions repeal the Missouri compromise so far as it applied to that country cut off from Texas? Do they not annul it? Do they not supersede it? If they do, then the address which has been put forth to the world by these confederates is an atrocious falsehood. If they do not, then what do they mean when they charge me with having, in the substitute first reported from the committee, repealed it, with having annulled it, with having violated it,

only agreeing to that which was past, and had no reference to the future? If that was their meaning—if that was their object—they palmed off an atrocious fraud upon the American people. Was it the meaning of the Democratic party, when we pledged ourselves to stand by the compromise of 1850, that we spoke only of the past and had no reference to the future? If so, it was then a fraud. When we pledged our President to stand by the compromise measures, did we not understand that we pledged him as to his future action? Was it as to his past conduct? If it had been in relation to past conduct only, the pledge would have been untrue as to a very large portion of the Democratic party. Men went into that convention who had been opposed to the compromise measures—men who abhorred those measures when they were pending—men who never would have voted affirmatively on them. But inasmuch as those measures had been passed, and the country had acquiesced in them, and it was important to preserve the principle in order to avoid agitation in the future, these men said to the President, we waive our past objections, and we will stand by you and with you in carrying out those principles in the future.

Such I understood to be the meaning of the two great parties at Baltimore. Such I understand to have been the effect of their pledges. If they did not mean this, they meant merely to adopt resolutions which were never to be carried out, and which were designed to mislead and deceive the people for the mere purpose of carrying an election.

I hold, then, that as to the territory covered by the Utah and New Mexico bills, there was an express annulment of the Missouri compromise; and as to all the other unorganized territories, it was superseded by the principles of that legislation, and we are bound to apply those principles in the organization of all new Territories, to all which we now own, or which we may hereafter acquire. If this construction be given, it makes that compromise a final adjustment. No other construction can possibly impart finality to it. By any other construction the question is to be reopened the moment you ratify a new treaty requiring an inch of country from Mexico. By any other construction you reopen the issue every time you make a new territorial government. But, sir, if you treat the compromise measures of 1850 in the light of great principles, sufficient to remedy temporary evils, at the same time that they prescribe rules of action applicable everywhere in all time to come, then you avoid the agitation forever, if you observe good faith to

when I only copied those precise words? I copied the precise words into my bill as reported from the committee which were contained in the New Mexico bill. They say my bill annuls the Missouri compromise. If it does, it had already been done before by the act of 1850, for these words were copied from the act of 1850.

SENATOR WADE.—Why did you do it over again?

SENATOR DOUGLAS.—I will come to that point presently and explain why we did it over again. I am now dealing with the truth and veracity of a combination of men who have assembled in secret caucus upon the Sabbath day, to arraign my conduct and belie my character.

In order to give greater plausibility to this falsification of the terms of the compromise measures of 1850, the confederates also declare in their manifesto that they (the territorial bills for the organization of Utah and New Mexico) "applied to the territory acquired from Mexico, and to that only. They were intended as a settlement of the controversy growing out of that acquisition, and of that controversy only. They must stand or fall by their own merits."

Sir, so far as the Utah and New Mexico bills included the territory which had been subject to the Missouri compromise provision, to that extent they absolutely annulled the Missouri compromise. As to the unorganized territory not covered by those bills, it was superseded by the principles of the compromise of 1850. We all know that the object of the compromise measures of 1850 was to establish certain great principles, which would avoid the slavery agitation in all time to come. Was it our object simply to provide for a temporary evil? Was it our object just to heal over an old sore, and leave it to break out again? Was it our object to adopt a mere miserable expedient to apply to that territory, and that alone, and leave ourselves entirely at sea without compass when new territory was acquired, or new territorial organizations were to be made? Was that the object for which the eminent and venerable Senator from Kentucky [Mr. Clay] came here and sacrificed even his last energies upon the altar of his country? Was that the object for which Webster, Clay, Cass, and all the patriots of that day struggled so long and so strenuously? Was it merely the application of a temporary expedient in agreeing to stand by past and dead legislation that the Baltimore platform pledged us to sustain the compromise of 1850? Was it the understanding of the Whig party, when they adopted the compromise measures of 1850 as an article of political faith, that they were

the provisions of these enactments, and the principles established by them.

Mr. President, I repeat that, so far as the question of slavery is concerned, there is nothing in the bill under consideration which does not carry out the principle of the compromise measures of 1850, by leaving the people to do as they please, subject only to the provisions of the Constitution of the United States. If that principle is wrong, the bill is wrong. If that principle is right, the bill is right. It is unnecessary to quibble about phraseology or words; it is not the mere words, the mere phraseology, that our constituents wish to judge by. They wish to know the legal effect of our legislation.

The legal effect of this bill, if it be passed as reported by the Committee on Territories, is neither to legislate slavery into these Territories nor out of them, but to leave the people to do as they please, under the provisions and subject to the limitations of the Constitution of the United States. Why should not this principle prevail? Why should any man, North or South, object to it? I will especially address the argument to my own section of the country, and ask why should any Northern man object to this principle? If you will review the history of the slavery question in the United States, you will see that all the great results in behalf of free institutions which have been worked out have been accomplished by the operation of this principle, and by it alone.

Let me ask you where have you succeeded in excluding slavery by an act of Congress from one inch of the American soil? You may tell me that you did it in the Northwest Territory by the ordinance of 1787. I will show you by the history of the country that you did not accomplish any such thing. You prohibited slavery there by law, but you did not exclude it in fact. Illinois was a part of the Northwest Territory. With the exception of a few French and white settlements, it was a vast wilderness, filled with hostile savages, when the ordinance of 1787 was adopted. Yet, sir, when Illinois was organized into a territorial government it established and protected slavery, and maintained it in spite of your ordinance, and in defiance of its express prohibition. It is a curious fact that, so long as Congress said the Territory of Illinois should not have slavery, she actually had it; and on the very day when you withdrew your congressional prohibition, the people of Illinois, of their own free will and accord, provided for a system of emancipation.

But, sir, these abolition confederates, in their manifesto,

have also referred to the wonderful results of their policy in the State of Iowa. Here again they happen to be in fault as to the laws of the land. The act to organize the Territory of Iowa did not prohibit slavery, but the people of Iowa were allowed to do as they pleased under the territorial government. Iowa, when she came to form a constitution and State government, preparatory to admission into the Union, considered the subject of free and slave institutions calmly, dispassionately, without any restraint or dictation, and determined that it would be to the interest of her people in their climate, and with their productions, to prohibit slavery, and hence Iowa became a free State by virtue of this great principle of allowing the people to do as they please, and not in obedience to any Federal command.

The abolitionists are also in the habit of referring to Oregon as another instance of the triumph of their abolition policy. There again they have overlooked or misrepresented the history of the country. Sir, for about twelve years you failed to give Oregon any government or any protection; and during that period the inhabitants of that country established a government of their own, and by virtue of their own laws, passed by their own representatives before you extended your jurisdiction over them, prohibited slavery by a unanimous vote.

How was it in regard to California? Every one of these abolition confederates who have thus arraigned me and the Committee on Territories before the country, who have misrepresented our position, and misquoted the law and the fact, predicted that, unless Congress interposed by law and prohibited slavery in California, it would inevitably become a slave-holding State. Congress did not interfere; Congress did not prohibit slavery. There was no enactment upon the subject; but the people formed a State constitution and then prohibited slavery.

So it was in regard to Utah and New Mexico. We established the territorial governments of Utah and New Mexico without any prohibition. We gave to these abolitionists a full opportunity of proving whether their predictions were true or false. Years have rolled round and the result is before us. The people there have not passed any law recognizing, or establishing, or introducing, or protecting slavery in the Territories.

I know of but one Territory of the United States where slavery does exist, and that one is where you have prohibited it by law, and it is this very Nebraska Territory. In defiance of the eighth section of the act of 1820, in defiance of congressional dictation, there have been, not many but a few, slaves

it was in force, and advocated its extension to the Pacific. Now, when that has been abandoned, when it has been superseded, when a great principle of self-government has been substituted for it, I choose to cling to that principle, and abide in good faith, not only by the letter but by the spirit of the last compromise.

SENATOR CHASE.—Mr. President, the Senator from Illinois charges that the address, upon which he has been pleased to comment in terms which befit any other place than the Senate Chamber—however low that place may be—was concocted in what he chooses to call an abolition caucus held upon Sunday. Ay, sir, with a generosity peculiarly his own, he has availed himself of a mere error of date, and piously holds up to public reprobation the gentlemen who have signed that address as violating the sacredness of the Sabbath day, that day for which he cherishes, doubtless, a peculiar reverence.

Well, sir, the Senator further charges that a false statement has been put forth in connection with this address. That false statement, as he alleges, was this: That the appeal was signed by a majority of the members from the State of Ohio. He thinks that the design was to catch some "soft-footed Democrats." "Soft-footed Democrats!" Ay, that is the phrase by which he chooses to mark all Democrats who will vote against this bill. I trust he will find that such Democrats are a little more numerous than he seems now to imagine.

The simple facts are these: The address bears no signatures other than those of the Independent Democrats, whom the Senator chooses to style "the abolition confederates." By no one of them was it ever represented to be otherwise signed. Some gentlemen connected with the press, however, hearing of the purpose that it should be signed by more or less of the delegation from Ohio, have sent it abroad with a statement that it was thus signed in fact.

Well, sir, the Senator proceeded to take exception to the character and scope of the whole document. He says that we, forsooth, have held him up to the country in this address as guilty of certain great and enormous crimes. Why, sir, any man who reads the address will see that in no part of it, from first to last, except in a brief note appended, is the Senator mentioned at all. So far as I am responsible for the document, either by signature or authorship, I tell the Senator he was not in all my thoughts. He exaggerates his importance when he supposes that we had him, rather than any other member of the committee, specially in view. Sir, I know the gigan-

introduced. I heard a minister of the Gospel the other day conversing with a member of the Committee on Territories upon this subject. This preacher was from that country; and a member put this question to him: "Have you any negroes out there?" He said there were a few held by the Indians. I asked him if there were not some held by white men? He said there were a few, under peculiar circumstances, and he gave an instance: An abolition missionary, a very good man, had gone there from Boston, and he took his wife with him. He got out into the country, but could not get any help; hence he, being a kind-hearted man, went down to Missouri and gave \$1,000 for a negro, and took him up there as "help." [Laughter.] So, under peculiar circumstances, when these Free-Soil and abolition preachers and missionaries go into the country, they can buy a negro for their own use, but they do not like to allow anyone else to do the same thing. [Renewed laughter.] I suppose the fact of the matter is simply this: There the people can get no servants, and, from the necessity of the case, they must do the best they can, and for this reason a few slaves have been taken there. I have no doubt that, whether you organize the Territory of Nebraska or not, this will continue for some time to come. It certainly does exist, and it will increase as long as the Missouri compromise applies to the Territory; and I suppose it will continue for a little while during their territorial condition, whether a prohibition is imposed or not. But when settlers rush in—when labor becomes plenty, and therefore cheap, in that climate, with its productions, it is worse than folly to think of its being a slave-holding country. I do not believe there is a man in Congress who thinks it could be permanently a slave-holding country. All I have to say on that subject is that, when you create them into a Territory, you thereby acknowledge that they ought to be considered a distinct political organization. And, when you give them in addition a legislature, you thereby confess that they are competent to exercise the powers of legislation. If they wish slavery they have a right to it. If they do not want it, they will not have it, and you should not force it upon them.

I do not like, I never did like, the system of legislation on our part by which a geographical line, in violation of the laws of nature, and climate, and soil, and of the laws of God, should be run to establish institutions for a people; yet, out of a regard for the peace and quiet of the country, out of respect for past pledges, and out of a desire to adhere faithfully to all compromises, I sustained the Missouri compromise so long as

the stature of the Senator;¹ I know the weight and importance which he possesses in the country; I know that he has a great and powerful party surrounding him; and I know also the great disadvantages under which I enter into any controversy which he provokes. I am in a minority. I know that full well. It is no very pleasant position. But I dare do that which I should like to see the Senator also do. I dare adhere to principle, even though that adherence must carry me into a minority.

Sir, our offence is that we deny the nationality of slavery. No man can show that we have ever sought to interfere with the legislation of any State of the Union upon that subject. All that we have ever insisted upon is that the Territories of this Union shall be preserved from slavery; and that where the general Government exercises exclusive jurisdiction its legislation shall be on the side of liberty. It is because we defend these positions that the Senator from Illinois attacks us. He thinks that he can take advantage of his position in the country—that he can take advantage of his connection with a great and powerful political organization, and assail us with little hazard. It is safe to attack opponents who stand, as we stand, without the supports he counts upon. Ay, sir, that shows courage, that shows chivalry, that shows high honor, that shows lofty manhood—to assail the few and the unsupported. I tell the Senator from Illinois that we did not assail him. We did not say a word about him from the beginning to the end of our appeal. He was named only in the postscript, and then merely as the author of the bill. We spoke of the bill. We spoke of its character. We said nothing about the character of the individuals who were its authors; anybody may see that who chooses to read the address.

In the whole discussion of the matter in controversy, we confined ourselves in that appeal strictly and closely to the merits of the case. And now, sir, here, in this Chamber, before this audience, I reaffirm every word and every syllable of that appeal. I make no personal imputations; I make no personal charges; I do not follow the example which has been set here to-day, but which, in my judgment, is not fit to be followed anywhere; but I reaffirm and reiterate, distinctly and emphatically, every word and every syllable of that address. I thank the Senator from Illinois for having brought it so prominently before the country. It will now reach thousands and tens of

¹ Senator Douglas was short in stature, and therefore was called by his followers the "Little Giant," in implicit compliment to his intellectual endurance among his fellow statesmen.

thousands who would not have read it but for the discussion which has taken place here to-day. It will be seen, read, and judged by the people, and they will determine for themselves whether or not its doctrine is sound and its facts are truly stated.

In this appeal "we arraign this bill as a gross violation of a sacred pledge." The Senator from Illinois thinks that the pledge of the Missouri compromise was nothing worth. We think it was of vast consequence, and absolutely binding; and, as the bill proposes to abrogate it, we do not choose soft words, but characterize it at once as it deserves. We arraign it also as "a criminal betrayal of precious rights." Well, what rights are precious if those secured to free labor and free laborers in that vast Territory are not? What can be criminal, if it be not criminal to subvert these rights for the purpose of giving room to slavery? When the bill proposes to reach this bad end by the baseless declaration that the Missouri prohibition is superseded by the principles of the legislation of 1850—a singular mode of repeal that—we call it "a criminal betrayal of precious rights."

The appeal goes on to denounce the bill as "part and parcel of an atrocious plot to exclude from a vast unoccupied region emigrants from the Old World and free laborers from our own States, and convert it into a dreary region of despotism, inhabited by masters and slaves." Well, suppose this Territory opened to slavery. Who does not know that upon the western borders of Missouri there are many slaveholders restrained now by the prohibition, but eager to enter the new Territory with their slaves? Who does not know that the effect of the introduction of slaves will be the exclusion of free laborers, and, to a great extent, of the emigrants from Europe? Why, sir, in my judgment, a concerted movement by slavery confederates to open this great Territory, larger by twelve times than the whole State of Ohio—larger than all the existing free States, with the exception of California—to the ingress of slavery is mildly characterized by the language of the appeal. But I will not further review this document. It will appear with these remarks and will speak for itself.

On February 3, 1854, Senator Chase moved to strike out so much of the bill as declared the restriction regarding slavery in the Missouri compromise "superseded" by the compromise of 1850. He spoke as follows upon the amendment:

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territorial slavery into Congress—not we who are denounced as agitators and factionists. No, sir; the quietists and the finalists have become agitators; they who told us that all agitation was quieted, and that the resolutions of the political conventions put a final period to the discussion of slavery.

This will not escape the observation of the country. It is slavery that renews the strife. It is slavery that again wants room. It is slavery, with its insatiate demands for more slave territory and more slave States.

And what does slavery ask for now? Why, sir, it demands that a time-honored and sacred compact shall be rescinded—a compact which has endured through a whole generation—a compact which has been universally regarded as inviolable, North and South—a compact the constitutionality of which few have doubted, and by which all have consented to abide.

It will not answer to violate such a compact without a pretext. Some plausible ground must be discovered or invented for such an act; and such a ground is supposed to be found in the doctrine which was advanced the other day by the Senator from Illinois, that the compromise acts of 1850 "superseded" the prohibition of slavery north of 36° 30', in the act preparatory for the administration of Missouri.

It is against this statement, untrue in fact and without foundation in history, that the amendment which I have proposed is directed.

The Senator from Illinois attempts to show that the original policy of the country was one of indifference between slavery and freedom; and that, in pursuance of it, a geographical line was established reaching from the eastern to the western limit of the original States—that is to say, to the Mississippi River. Sir, if anything is susceptible of absolute historical demonstration, I think it is the proposition that the founders of this Republic never contemplated any extension of slavery.

Senator Chase here adduced the anti-slavery opinions of Thomas Jefferson and his part in the organization of the Territorial domain. Jefferson had been a member of the first committee to report an ordinance on the subject. In this early ordinance the proviso was made that slavery should be abolished after 1800 in all the territory belonging to the Government.

Well, what was the action of Congress upon this proviso? The States stood six to three in its favor, four States

LET US MAINTAIN OUR PLIGHTED FAITH

SENATOR CHASE

Mr. President, I had occasion a few days ago to expose the utter groundlessness of the personal charges made by the Senator from Illinois [Mr. Douglas] against myself and the other signers of the Independent Democratic appeal. I now move to strike from this bill a statement which I will to-day demonstrate to be without any foundation in fact or history. I intend afterward to move to strike out the whole clause annulling the Missouri prohibition.

I enter into this debate, Mr. President, in no spirit of personal unkindness. The issue is too grave and too momentous for the indulgence of such feelings. I see the great question before me, and that question only.

Sir, these crowded galleries, these thronged lobbies, this full attendance of the Senate prove the deep, transcendent interest of the theme.

A few days only have elapsed since the Congress of the United States assembled in this Capitol. Then no agitation seemed to disturb the political elements. Two of the great political parties of the country, in their national conventions, had announced that slavery agitation was at an end, and that henceforth that subject was not to be discussed in Congress or out of Congress. The President, in his annual message, had referred to this state of opinion, and had declared his fixed purpose to maintain, as far as any responsibility attached to him, the quiet of the country.

And so, sir, the country was at peace. As the eye swept the entire circumference of the horizon and upward to mid-heaven not a cloud appeared.

But suddenly all is changed. Rattling thunder breaks from the cloudless firmament. The storm bursts forth in fury. Warring winds rush into conflict.

"Eurus, Notusque ruunt, creberque procellis,
Africus."

"Yes, sir, "*creber procellis Africus*"—the south wind thick with storm. And now we find ourselves in the midst of an agitation, the end and issue of which no man can foresee.

Now, sir, who is responsible for this renewal of strife and controversy? Not we, for we have introduced no question of

being either divided or not voting. Of the twenty-three delegates present, sixteen were for the proviso and seven against it. But under the provisions of the Articles of Confederation, which then controlled the legislation of Congress, the votes of a majority of all the States were necessary to retain the proviso in the ordinance. It failed, consequently. Sir, if that doctrine of the rights of majorities, of which we hear so much and see in actual practice so little, had then been recognized—if the wishes of a majority of the States, and of the majority of the delegates, had prevailed—if the almost universal sentiment of the people had been respected, the question of slavery in this country would have been settled that day forever. All the territory acquired by the Union would have been covered with the impenetrable ægis of freedom. But then, as now, there was a slave interest in the country—then, as now, there was a slave power. The interest was comparatively small and the power comparatively weak; but they were sufficient, under the then existing Government, to defeat the proviso, and transfer the great question of slavery to future discussion. The facts which I have detailed, however, are sufficient to show what was the general sentiment, and what was the original policy of the country in respect to slavery. It was one of limitation, discouragement, repression.

What next occurred? The subject of organizing this Territory remained before Congress. Mr. Jefferson, in 1785, went to France. His great influence was no longer felt in the councils of the country, but his proviso remained, and in 1787 was incorporated into the ordinance for the government of the territory northwest of the River Ohio. I beg the Senate to observe that this territory was, at that moment, the whole territory belonging to the United States. I will not trouble the Senate by reading the proviso of the ordinance. It is enough to say that the Jefferson proviso of 1784, coupled with a provision saving to the original States of the Union a right to reclaim fugitives from service, was incorporated into the ordinance, and became a fundamental law over every foot of national territory. What was the policy indicated by this action by the Fathers of the Republic? Was it that of indifference between slavery and freedom?—that of establishing a geographical line, on one side of which there should be liberty and on the other side slavery, both equally under the protection and countenance of the Government? No, sir; the furthest thing possible from that. It was the policy of excluding slavery from all national territory. It was adopted, too, under remarkable circumstances.

Slavery was already in the territory under the French colonial law, and also, if the claim of Virginia was well founded, under the laws of that State. These facts prove that the first application of the original policy of the Government converted slave territory into free territory.

And now, sir, let me ask the attention of the Senate to the Constitution itself. That charter of our Government was not formed upon pro-slavery principles, but upon anti-slavery principles. It nowhere recognizes any right of property in man. It nowhere confers upon the Government which it creates any power to establish or to continue slavery.

Not only was the idea of property in men excluded from the Constitution; not only was there no power granted to Congress to authorize or enable any man to hold another as property, but an amendment was afterward ingrafted upon the Constitution which especially denied all such power.

The history of that amendment is worth attention. The State which the Senators from Virginia so ably represent on this floor was one of those which immediately after the adoption of the Constitution proposed amendments of it. One of the amendments which she proposed was this:

"No freeman ought to be taken, imprisoned, or deprived of his freehold, liberties, or franchises, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land."

Did Congress adopt that amendment? No, sir; it adopted and proposed to the States a very different amendment. It was this:

"No person * * * shall be deprived of life, liberty, or property, without due process of law."

Now, sir, in my judgment, this prohibition was intended as a comprehensive guaranty of personal freedom, and denies absolutely to Congress the power of legislating for the establishment or maintenance of slavery. This amendment of itself, rightly interpreted and applied, would be sufficient to prevent the introduction of slaves into any territory acquired by the United States. At all events, taken in connection with the ordinance, and with the original provision of the Constitution, it shows conclusively the absence of all intention upon the part of the founders of the Government to afford any countenance or protection to slavery outside of State limits. Departure from the true interpretation of the Constitution has created the necessity for positive prohibition.

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the Constitution of the United States, were absolutely in harmony one with the other; and that if the ordinance had never been adopted, the Constitution itself, properly interpreted, and administered, would have excluded slavery from all newly acquired territory. But, sir, whatever opinion may be entertained in respect to the interpretation of the Constitution which I defend, one thing is absolutely indisputable, and that is that it was the original policy of the country to exclude slavery from all national territory.

The Senator continued his historical review of slavery in the United States, showing that there was no thought of establishing a geographical line (such as Senator Douglas had claimed was drawn at that early period) until the Missouri compromise. Having related the history of this adjustment of the question, he said:

Here then is a compact, complete, perfect, irrevocable, so far as any compact, embodied in a legislative act, can be said to be irrevocable. It had the two sections of the country for its parties, a great Territory for its subject, and a permanent adjustment of a dangerous controversy for its object. It was forced upon the free States. It has been literally fulfilled by the free States. It is binding, indeed, only upon honor and conscience; but, in such a matter, the obligations of honor and conscience must be regarded as even more sacred than those of constitutional provisions.

Mr. President, if there was any principle which prevailed in this arrangement, it was that of permitting the continuance of slavery in the localities where it actually existed at the time of the acquisition of the territory, and prohibiting it in the parts of territory in which no slaves were actually held. This was a wide departure from the original policy which contemplated the exclusion of slavery from territories in which it actually existed at the time of acquisition. But the idea that slavery could ever be introduced into free territory, under the sanction of Congress, had not, as yet, entered into any man's head.

Senator Chase continued with his review, taking up the history of the Wilmot proviso. The North's position, he stated, was that territory already free, south of the Compromise line, should remain free. Therefore the free States defeated Senator Douglas's proposal

My general view upon this subject is simply this: Slavery is the subjection of one man to the absolute disposal of another man by force. Master and slave, according to the principles of the Declaration of Independence, and by the law of nature, are alike men, endowed by their Creator with equal rights. Sir, Mr. Pinckney was right when, in the Maryland House of Delegates, he exclaimed, "By the eternal principles of justice, no man in the State has a right to hold his slave for a single hour." Slavery then exists nowhere by the law of nature. Wherever it exists at all, it must be through the sanction and support of municipal or State legislation.

Upon this state of things the Constitution acts. It recognizes all men as persons. It confers no power, but, on the contrary, expressly denies to the Government of its creation all power to establish or continue slavery. Congress has no more power under the Constitution to make a slave than to make a king; no more power to establish slavery than to establish the Inquisition.

At the same time the Constitution confers no power on Congress; but, on the contrary, denies all power to interfere with the internal policy of any State, sanctioned and established by its own constitution and its own legislation, in respect to the personal relations of its inhabitants. The States under the Constitution are absolutely free from all interference by Congress in that respect, except, perhaps, in the case of war or insurrection; and may legislate as they please within the limitations of their own constitutions. They may allow slavery if they please, just as they may license other wrongs. But State laws, by which slavery is allowed and regulated, can operate only within the limits of the State, and can have no extra-territorial effect.

Sir, I could quote the opinions of Southern judges *ad infinitum*, in support of the doctrine that slavery is against natural right, absolutely dependent for existence or continuance upon State legislation. I might quote the scornful rejection by Randolph of all aid from the general Government to the institution of slavery within the States. I might quote the decision of the celebrated Chancellor George Wythe, of Virginia—overruled afterward, I know, in the court of appeals—that slavery was so against justice that the presumption of freedom must be allowed in favor of every alleged slave suing for liberty, and that the onus of proving the contrary rested upon the master.

I think I have now shown that the Ordinance of 1787, and

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to extend the line to the Pacific, with the effect that slavery would be introduced in all territory to the south, whatever its previous condition, whether slave or free.

The Senator then came to the Clay Compromise.

What, then, was the principle, if any, upon which this controversy was adjusted? Clearly this: That, when free territory is acquired, that part of it which is ready to come in as a free State shall be admitted into the Union, and that part which is not ready shall be organized into territorial governments, and its condition in respect to slavery or freedom shall be left in doubt during the whole period of its territorial existence.

It is quite obvious, Mr. President, how very prejudicial such a doubt must be to the settlement and improvement of the territory. But I must not pause upon this.

The truth is that the compromise acts of 1850 were not intended to introduce any principle of territorial organization applicable to any other Territory except that covered by them. The professed object of the friends of the compromise acts was to compose the whole slavery agitation. There were various matters of complaint. The non-surrender of fugitives from service was one. The existence of slavery and the slave trade here in this District and elsewhere, under the exclusive jurisdiction of Congress, was another. The apprehended introduction or prohibition of slavery in the Territories furnished other grounds of controversy. The slave States complained of the free States, and the free States complained of the slave States. It was supposed by some that this whole agitation might be stayed, and finally put at rest by skillfully adjusted legislation. So, sir, we had the Omnibus bill, and its appendages the Fugitive Slave bill, and the District Slave Trade Suppression bill. To please the North—to please the free States—California was to be admitted, and the slave depots here in the District were to be broken up. To please the slave States, a stringent fugitive slave act was to be passed, and slavery was to have a chance to get into the new Territories. The support of the Senators and Representatives from Texas was to be gained by a liberal adjustment of boundary, and by the assumption of a large portion of their State debt. The general result contemplated was a complete and final adjustment of all questions relating to slavery. The acts passed. A number of the friends of the acts signed a compact, pledging themselves to support no man for any office who would in any way renew the agitation. The

country was required to acquiesce in the settlement as an absolute finality. No man concerned in carrying those measures through Congress, and least of all the distinguished man whose efforts mainly contributed to their success, ever imagined that in the territorial acts, which formed a part of the series, they were planting the germs of a new agitation. Indeed, I have proved that one of these acts contains an express stipulation which precludes the revival of the agitation in the form in which it is now thrust upon the country, without manifest disregard of the provisions of those acts themselves.

I have thus proved beyond controversy that the averment of the bill, which my amendment proposes to strike out, is untrue. Senators, will you unite in a statement which you know to be contradicted by the history of the country? Will you incorporate into a public statute an affirmation which is contradicted by every event which attended or followed the adoption of the compromise acts? Will you here, acting under your high responsibility as Senators of the States, assert as fact, by a solemn vote, that which the personal recollection of every Senator who was here during the discussion of those compromise acts disproves? I will not believe it until I see it. If you wish to break up the time-honored compact embodied in the Missouri compromise, transferred into the joint resolution for the annexation of Texas, preserved and affirmed by these compromise acts themselves, do it openly—do it boldly. Repeal the Missouri prohibition. Repeal it by a direct vote. Do not repeal it by indirection. Do not “declare” it “inoperative,” “because superseded by the principles of the legislation of 1850.”

Senator Chase closed his speech with a philosophical analysis of the history of slavery in the country, dividing the period covered into eras. The *Era of Emancipation* was the first. It continued until the Louisiana Purchase, when, owing to the acquisition of territory where slavery already existed, it waned into the *Era of Conservatism*, in which the subject of slavery was “let alone,” e. g., the possession of slaves in Illinois was winked at, while the ordinance of 1787 was continued nominally in force.

The Era of Conservatism passed, also by imperceptible gradations, into the *Era of Slavery Propagandism*. Under the influences of this new spirit we opened the whole territory

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ject, to insist upon the practical application of its great principles in all the legislation of Congress.

I repeat, sir, that we who maintain these principles will stand shoulder to shoulder with the men who, differing from us upon other questions, will yet unite with us in opposition to the violation of plighted faith contemplated by this bill. There are men, and not a few, who are willing to adhere to the compromises of 1850. If the Missouri prohibition, which those compromises incorporate and preserve among their own provisions, shall be repealed, abrogated, broken up, thousands will say, Away with all compromises; they are not worth the paper on which they are printed; we will return to the old principles of the Constitution. We will assert the ancient doctrine, that no person shall be deprived of life, liberty, or property, by the legislation of Congress, without due process of law. Carrying out that principle into its practical applications, we will not cease our efforts until slavery shall cease to exist wherever it can be reached by the constitutional action of the Government.

Sir, I trust that the result of this discussion will show that the American Senate will sanction no breach of compact. Let us strike from the bill that statement which historical facts and our personal recollections disprove, and then reject the whole proposition which looks toward a violation of the plighted faith and solemn compact which our fathers made, and which we, their sons, are bound by every tie of obligation sacredly to maintain.

On the next day (February 4) Senator Dixon replied to Senator Chase. His chief argument was the familiar one that the Territories belonged in common to the people of the entire Union, and no discrimination, therefore, should be made against the South by Federal restriction of slavery therein.

The debate was renewed on February 6, Senator Wade having the floor. The Senator claimed that the “conspiracy” to overturn the Missouri compromise had been “hatched” within the previous six weeks. When the compromise of 1850 had been proposed the delicate question of whether or not it superseded the compromise of 1820 had been carefully avoided.

But, sir, notwithstanding their extraordinary silence, Senators have discovered that the legislation of 1850 had, in some

acquired from Mexico, except California, to the ingress of slavery. Every foot of it was covered by a Mexican prohibition; and yet, by the legislation of 1850, we consented to expose it to the introduction of slaves. Under the evil influences of the same spirit, we are now called upon to reverse the original policy of the Republic; to subvert even a solemn compact of the conservative period, and open Nebraska to slavery.

Sir, I believe that we are upon the verge of another era. That era will be the *Era of Reaction*. The introduction of this question here, and its discussion, will greatly hasten its advent. We, who insist upon the denationalization of slavery, and upon the absolute divorce of the general Government from all connection with it, will stand with the men who favored the compromise acts, and who yet wish to adhere to them, in their letter and in their spirit, against the repeal of the Missouri prohibition. But you may pass it here. You may send it to the other House. It may become law. But its effect will be to satisfy all thinking men that no compromises with slavery will endure, except so long as they serve the interests of slavery; and that there is no safe and honorable ground for non-slaveholders to stand upon, except that of restricting slavery within State limits, and excluding it absolutely from the whole sphere of Federal jurisdiction. The old questions between political parties are at rest. No great question so thoroughly possesses the public mind as this of slavery. This discussion will hasten the inevitable reorganization of parties upon the new issues which our circumstances suggest. It will light up a fire in the country which may, perhaps, consume those who kindle it.

I cannot believe that the people of this country have so far lost sight of the maxims and principles of the Revolution, or are so insensible to the obligations which those maxims and principles impose, as to acquiesce in the violation of this compact. Sir, the Senator from Illinois tells us that he proposes a final settlement of all territorial questions in respect to slavery, by the application of the principle of popular sovereignty. What kind of popular sovereignty is that which allows one portion of the people to enslave another portion? Is that the doctrine of equal rights? Is that exact justice? Is that the teaching of enlightened, liberal, progressive democracy? No, sir; no! There can be no real democracy which does not fully maintain the rights of man, as man. Living, practical, earnest democracy imperatively requires us, while carefully abstaining from unconstitutional interference with the internal regulations of any State upon the subject of slavery, or any other sub-

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mysterious manner, superseded the most stern and stubborn law of Congress, which was formed upon a compromise as sacred as could be made between conflicting sections of this Union, and concurred in on all hands for at least one-third of a century. They declare that it is superseded by a new “principle.” Now, as a lawyer, I hardly know what a man means when he tells me that an act of legislation is superseded by a principle. I thought it took an act of Congress to repeal, or annul, or suspend, a former act.

SENATOR DOUGLAS.—I contend that by the acts of 1850 a great principle of self-government was substituted for a geographical line; and hence, by the use of the words “superseded by,” I mean which was “inconsistent with” the compromise of 1850. If the gentleman prefers the words “inconsistent with,” I will put them in with a great deal of pleasure, and that will avoid all the trouble in regard to the use of the word “supersede.”

SENATOR WADE.—The Senator made a very simple declaration in his speech upon this point. It was that the Missouri compromise was annulled to the extent to which Congress, in running the boundary lines of New Mexico and Utah, might take for the sake of convenience any little piece of territory which was covered by the Missouri compromise. That certainly was a truism; but the idea that the acts to organize Utah and New Mexico repealed or superseded the Missouri compromise as to the remainder of the territory acquired by the Louisiana cession is an idea from which I am glad to see that the gentleman now recedes.

SENATOR DOUGLAS.—Not at all.

SENATOR WADE.—What does the Senator mean, then, by saying that the Missouri compromise was superseded by the principles of the compromise measures of 1850? Suppose you run a line with your neighbor, and the line has become uncertain, and in order to straighten it you run another, and in running this other line may possibly take in a little land that belonged to him, or you may leave out a little belonging to yourself; if you find you have entered wrongfully on his land, does the principle of running that line supersede his title to the balance, and therefore can you lay title to the whole of his land? Indeed, the gentleman informed us, in the report, that this was a matter too grave even for Congress to decide, and much too grave for a committee, and therefore they would not do it; and yet in nineteen days afterward they come in with what is equivalent to a total repeal of the compromise.

I will not answer for the consequences of the legislation of this day, sir; but I anxiously desire to inquire if nothing can be established in this Government? Is there nothing too sacred to be overhauled for some miserable party or other purpose?

Why, sir, Henry Clay is scarcely in his grave before another generation comes up that knows not what he had done, and some even pretend that in what he himself did, in 1850, he seemed to concede that the compromise of 1820 was not to be lived up to. I tell the gentlemen there is not a word, nor a syllable, that goes to indicate that anyone supposed that anything was done then to overthrow the time-honored compromise of 1820. Not one word, sir; but, on the contrary, if they could recur to this compromise, they indorsed it and reaffirmed it in 1850 beyond all gainsaying.

But, sir, I need not refer further to the speech of the Senator from Illinois. My colleague [Mr. Chase] so entirely pulverized that speech that there is not enough of it left upon which a man can possibly hang an idea. [Laughter.] In fact, there was nothing to begin with. It was a bare afterthought; after the report of the committee had been made, and the bill had been altered, it was necessary to get up some other reason or pretext than was set forth in the report, in order to show why it was proposed to repeal the Missouri compromise.

Here is a Territory large as an empire. It is pure as nature; it is beautiful as the garden of God. There is nothing now to prevent us doing with it what will minister to the best interests of the people now and hereafter. Our forefathers expressed their opinion as to what was best to be done with it. They believed it should be fenced up from the intrusion of this accursed scourge of mankind, human slavery. They have done this effectually in this Territory. Shall we undo their work? The Southern States have had the benefit of the Missouri compromise for thirty years! Has any Northern man stepped forward, Senators of the South, to impair your rights in that compromise? No, sir, it is not pretended; and now the period is drawing near when that part of this great bargain which is beneficial to us at the North is approaching, and I call upon you as honorable men to fulfill it. The Senator from Kentucky [Mr. Dixon] told us that this came from the North, and therefore the South were absolved from their obligation. I must say I think you understand well that the North know nothing about this base conspiracy to betray them. When did it come up? Did you let it go before the people, that they might pass upon the question? Why, sir, in the presidential

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see a cloud, a little bigger now than a man's hand, gathering in the North, and in the West, and all around, and soon the whole northern heavens will be lighted up with a fire that you cannot quench. The indications of it are rife now in the heavens, and any man who is not blind can see it. There are meetings of the people in all quarters; they express their alarm, their dismay, their horror at the proposition which has been made here. You cannot make them believe that the thing is seriously contemplated here. How is it? You of the South, all of you, propose to go for repudiating this obligation. Do you not see that you are about to bring slavery and freedom face to face, to grapple for the victory, and that one or the other must die? I do not know that I ought to regret it, but I say to gentlemen you are antedating the time when that must come. It has always been my opinion that principles so entirely in opposition to each other, so utterly hostile and irreconcilable, could never exist long in the same Government.

I tell you, sir, if you precipitate such a conflict as that, it will not be liberty that will die in the nineteenth century. This is a progressive age; and if you make this fight you must be ready for the consequences. I regret it. I am an advocate for the continuance of this Union; but, as I have already said, I do not believe this Union can survive ten years the act of perfidy that will repudiate the great compromise of 1820.

On February 14, George E. Badger [N. C.] spoke as follows:

My position has never been an extreme one upon this subject. I was always content with the Missouri compromise line—always anxious for it—always voted for it; but my own individual opinion upon the subject always was that the principles adopted in 1850 are the true principles.

We have among us a population of three millions of slaves. They are here. They are slaves. They cannot remain here except as slaves. Everybody knows that. They cannot, by any operation of man's wit, be put into any situation in our country which will not be vastly more injurious to them, physically and morally, than the identical state and condition which they now occupy. They cannot be sent away. Where are your means to come from to make an exodus across the ocean of three millions of slaves—to buy them, and to remove them? And if you could buy them, and remove them, permit me to say that a more cruel act of tyranny and oppression could not

election, triumphant as the Democracy were, I ask any gentleman of the North, suppose you had staked the election of Mr. Pierce upon this question, how many votes could he have received in the North? Not one. You gave us no notice of any such thing. The people of the North, even now, do not know what nefarious projects are afoot here in the Capitol. You of the South are not absolved, because one or two men, very honorable men, stand forth here and say, "I am ready to go in and make this monstrous proposition." Sir, in the days of the Revolution, Major André was hung by the neck until he was dead, for accepting a proposition not more base than this, which is a gross betrayal of the rights of the whole North.

Gentlemen seek to extend the market for human beings; and hence the object of this bill. I say it does not consist with the welfare of this Union to do so.

You may call me an abolitionist if you will; I care but little for that; for if an undying hatred to slavery or oppression constitutes an abolitionist, I am that abolitionist. Not, sir, that I ever went with that particular party; but I did not differ from them on these points; but because they did not make their opposition effectual, in my judgment; for I would have gone with those who would have reached your institutions, wherever the Constitution gave us a right to reach them, without encroaching one hair's breadth where we had no right. There I do not undertake, and never shall undertake, to trench, upon them. I admit that in the States you have full control over it. You may do with it as seems to you good. You never found me, you never found the party to which I belong in the North, pretending to do anything adverse to your right to make such laws and regulations with regard to this institution as you please. We hoped that you would see that the system did not work to your best advantage; we were in hopes you would see that a gradual system of emancipation, just such as made the vast difference between the progress of the State of New York and old Virginia, would wake up every sensible man to follow in the track, and to do likewise. We hoped that, but we claimed no right to interfere. You must do with this as seems to you good.

Mr. President, this is an exceedingly dangerous issue. I know the Senator from Kentucky said he did not think there would be very much of a storm after all. He was of opinion that the Northern mind would immediately lie down under it, that the North would do as they have frequently done, submit to it, and finally become indifferent in regard to it. But I tell the gentleman that I see indications entirely adverse to that. I

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be perpetrated upon any body of men. A very large proportion of them would reject with horror the idea of being transported to those barbarous and foreign climes of Africa, for which, though their fathers came from them, they cherish no feeling of attachment; for this is their country as well as ours.

What, then, are you going to do? Is it not obvious that the true policy, as well as the true Christian philanthropy, involved in this matter is to allow this population to diffuse itself in such portions of the Territories as from climate and soil are adapted to slave cultivation? You can have no injurious competition with your free labor. Slave labor will not be profitable, and largely employed anywhere, except upon the great staples of the South—tobacco, cotton, sugar, and rice. Will white men make these products for exportation? They will not. Will your Northern people compete with Southern slaves for the privilege of making rice, and sugar, and cotton, and tobacco? No, sir. Where that cultivation ceases, rely upon it, a slave population is not going to spread itself. We shall have no conflict, no embarrassment from the meeting of two tides of laborers from the North and South; for the kind of soil and climate which suits us and our slave cultivation does not suit yours.

Here, then, is the great fact we have to deal with. Why not let it adjust itself? Cease to quarrel and wrangle with each other. Live in your free States. Rejoice in the possession of the many advantages you have. But if there is a strip of land belonging to the United States, upon which a Southern planter can make cotton or sugar, why grudge it to him? He reduces no man from freedom to slavery in order to make it. He transfers his slaves from the banks of the Mississippi, or the Cooper, or the Cape Fear, or any of our Southern rivers, to another place; and he certainly will not do it unless the lands are better, the crops larger, and he and his slaves can live more comfortably, and have a more abundant supply of the necessities of life; and I will ask, in the name of Heaven, whom does it hurt? You love freedom. We do not ask you to make freemen slaves. You profess to have a regard for the black man; can you resist the only measure which can enable us to make a progressive improvement of his condition as the amount of black population increases?

I think, Mr. President, it is in the highest degree probable that, with regard to these Territories of Nebraska and Kansas, there will never be any slaves in them. It is possible some gentlemen may go there and take a few domestic servants with them; and I would say that if those domestic servants were

faithful and good ones, and the masters did not take them with them, the masters would deserve the reprobation of all good men. What would you have them do? Would you have me to take the servants who wait upon me, and live with me, and to whom I have as strong attachments as to any human beings on this earth out of my own immediate relations and connections, and, because I want to move to Kansas, put them in the slave market and sell them? Sir, I would suffer my right arm to be cut off before I would do it. Why, therefore, if some Southern gentleman wishes to take the nurse that takes charge of his little baby, or the old woman that nursed him in childhood, and whom he called "mammy" until he returned from college, and perhaps afterward, too, and whom he wishes to take with him in her old age when he is moving into one of these new Territories for the betterment of the fortunes of his whole family, why, in the name of God, should anybody prevent it? Do you wish to force us to become hard-hearted slave dealers? Do you wish to aggravate the evils, if there are evils existing in this relation? Do you wish that we shall no longer have a mutual feudal feeling between our dependants and ourselves? Do you want to make us mercenary and hard-hearted? Or will you allow us, having, as I trust we have, some touch of humanity, and some of the beneficial and love-breathing spirit of Christianity, to let these beings go forth as they are accustomed to do, and us to rejoice when we look out and see our slaves happy and cheerful around us, when we hear the song arising from their dwellings at night, or see them dressed in their neat clothes and going to attend their churches on Sunday, and realizing, as they look at us, that we are the best friends they have upon earth?

To the "old mammy" argument Senator Wade replied pertinently: "We have not the least objection to the Senator's migrating to Kansas and taking his old mammy along with him. We only insist that he shall not be empowered to sell her after taking her there."

On February 17 William H. Seward [N. Y.] made a long and carefully prepared speech, in the beginning of which he thus paid his respects to Senator Badger:

The honorable and very acute Senator from North Carolina has wooed us most persuasively to waive our objections to the new principle, as it is called, of non-intervention, by assuring us that the slaveholder can use slave labor only where the soils and

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absurdity as was attributed to it yesterday by the Senator from Indiana [John Pettit]. Sir, it is a palpable fact that men are not born equal in physical strength or in mental capacities, in beauty of form or health of body. These mortal cloaks of flesh differ, as do these worldly garments. Diversity or inequality, in these respects, is the law of creation. But, as God is no respecter of persons, and as all are equal in his sight, whether Dives or Lazarus, master or slave, so are all equal in natural inborn rights; and pardon me if I say it is a vain sophism to adduce in argument against this vital axiom of Liberty the physical or mental inequalities by which men are characterized, or the unhappy degradation to which, in violation of a common brotherhood, they are doomed. To deny the Declaration of Independence is to rush on the bosses of the shield of the Almighty, which, in all respects, the supporters of this measure seem to do.

To the delusive suggestion of the Senator from North Carolina [Mr. Badger], that, by the overthrow of this prohibition, the number of slaves will not be increased; that there will be simply a beneficent diffusion of slavery, and not its extension, I reply at once that this argument, if of any value, would equally justify and require the overthrow of the prohibition of slavery in the free States, and, indeed, everywhere throughout the world. It is clear, beyond dispute, that, by the overthrow of this prohibition, slaves will be multiplied, while new "room and verge" will be secured for the gloomy operations of slave law, under which free labor will droop, and a vast territory be smitten with sterility. Sir, a blade of grass would not grow where the horse of Attila had trod; nor can any true prosperity spring up in the footprints of the slave.

But it is argued that slaves will not be carried into Nebraska in large numbers, and that, therefore, the question is of small practical moment. Sir, the census shows that it is of vital consequence. There is Missouri at this moment, with Illinois on the east and Nebraska on the west, all covering nearly the same spaces of latitude, and resembling each other in soil, climate, and productions. Mark now the contrast! By the potent efficacy of the ordinance of the Northwestern Territory, Illinois is now a free State, while Missouri has 87,422 slaves; and the simple question which challenges an answer is whether Nebraska shall be preserved in the condition of Illinois or surrendered to that of Missouri? Surely this cannot be treated lightly. But for myself, I am unwilling to measure the exigency of the pro-

¹ Senator Pettit called the Declaration "a self-evident lie."

climates favor the culture of tobacco, cotton, rice, and sugar. To which I reply: None of them find these congenial soils or climates at the sources of the Mississippi, or in the valleys of the Rocky Mountains. Why, then, does he want to remove the inhibition there?

But again: That Senator reproduces a pleasing fiction of the character of slavery from the Jewish history, and asks, Why not allow the *modern patriarchs* to go into new regions with their slaves, as their ancient prototypes did, to make them more comfortable and happy? And he tells us, at the same time, that this indulgence will not increase the number of slaves. I reply by asking, first, whether slavery has gained or lost strength by the diffusion of it over a larger surface than it formerly covered? Will the Senator answer that? Secondly, I quite admire the simplicity of the patriarchal times. But they nevertheless exhibited some peculiar institutions quite incongruous with modern republicanism, not to say Christianity; namely, that of a latitude of construction of the marriage contract, which has been carried by one class of so-called patriarchs into Utah. Certainly no one would desire to extend that peculiar institution into Nebraska. Thirdly, slaveholders have also a peculiar institution, which makes them *political* patriarchs. They reckon five of their slaves as equal to three freemen in forming the basis of Federal representation. If these patriarchs insist upon carrying their institution into new regions, north of thirty-six degrees thirty minutes, I respectfully submit that they ought to reassume the modesty of their Jewish predecessors, and relinquish this political feature of the system they thus seek to extend. Will they do that?

On February 24, 1854, Senator Sumner delivered a long and eloquent address against the bill.

THE LANDMARK OF FREEDOM

SENATOR SUMNER

The primal truth of the equality of men, as proclaimed in our Declaration of Independence, has been assailed, and this great charter of our country discredited. Sir, you and I will soon pass away, but that will continue to stand, above impeachment or question. The Declaration of Independence was a Declaration of Rights, and the language employed, though general in its character, must obviously be restrained within the design and sphere of a Declaration of Rights, involving no such

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inhibition by the number of persons, whether many or few, whom it may protect. Human rights, whether in a vast multitude or a solitary individual, are entitled to an equal and unhesitating support.

And now, sir, in the name of that public faith which is the very ligament of civil society, and which the great Roman orator tells us it is detestable to break even with an enemy, I arraign this scheme, and hold it up to the judgment of all who hear me.

Sir, the proposition before you involves not merely the repeal of an existing law, but the infraction of solemn obligations originally proposed and assumed by the South, after a protracted and embittered contest, as a covenant of peace—with regard to the Louisiana Purchase. This arrangement in its stipulations for slavery was justly repugnant to the conscience of the North, and ought never to have been made; but it has on that side been performed. And now the unperformed outstanding obligations to freedom, originally proposed and assumed by the South, are resisted.

Years have passed since these obligations were embodied in the legislation of Congress and accepted by the country. This extraordinary lapse of time, with the complete fruition by one party of all the benefits belonging to it, under the compact, gives to the transaction an added and most sacred strength. Prescription steps in with new bonds to confirm the original work; to the end that, while men are mortal, controversies shall not be immortal. Death, with inexorable scythe, has mowed down the authors of this compact; but, with conservative hour-glass, it has counted out a succession of years, which now defile before us, like so many sentinels, to guard the sacred landmark of freedom.

A subtle German has declared that he could find heresies in the Lord's Prayer—and I believe it is only in this spirit that any flaw can be found in the existing obligations of this compact. As late as 1848, in the discussions of this body, the Senator from Virginia [Mr. Mason], while condemning it in many aspects, says:

"Yet as it was agreed to as a compromise by the South for the sake of the Union, *I would be the last to disturb it.*"

This act, under all the circumstances attending its passage, also by long acquiescence and the complete performance of its conditions by one party, has become a part of our fundamental law, irrepealable by any common legislation. As well might Congress at this moment undertake to overhaul the original pur-

chase of Louisiana, as unconstitutional,¹ and now, on this account, thrust away that magnificent heritage, with all its cities, States, and Territories, teeming with civilization. The Missouri compact, in its unperformed obligations to freedom, stands at this day as impregnable as the Louisiana Purchase.

I appeal to Senators about me not to disturb it. I appeal to the Senators from Virginia to keep inviolate the compact made in their behalf by James Barbour and Charles Fenton Mercer. I appeal to the Senators from South Carolina to guard the work of John Gaillard and William Lowndes. I appeal to the Senators from Maryland to uphold the compromise which elicited the constant support of Samuel Smith, and was first triumphantly pressed by the unsurpassed eloquence of Pinkney. I appeal to the Senators from Delaware to maintain the landmark of freedom in the Territory of Louisiana, early espoused by Louis McLane. I appeal to the Senators from Kentucky not to repudiate the pledges of Henry Clay. I appeal to the Senators from Alabama not to break the agreement sanctioned by the earliest votes in the Senate of their late most cherished fellow-citizen, William Rufus King. Sir, I have heard of an honor that felt a stain like a wound. If there be any such in this chamber—as surely there is—it will hesitate to take upon itself the stain of this transaction.

Sir, Congress may now set aside this obligation, repudiate this plighted faith, annul this compact; and some of you, forgetful of the *majesty of honest dealing*, in order to support slavery, may consider it advantageous to use this power. To all such let me commend a familiar story: An eminent leader in antiquity, Themistocles, once announced to the Athenian Assembly that he had a scheme to propose highly beneficial to the state, but which could not be expounded to the many. Aristides, surnamed the Just, was appointed to receive the secret, and to report upon it. His brief and memorable judgment was that, while nothing could be more advantageous to Athens, nothing could be more unjust; and the Athenian multitude, responding at once, rejected the proposition. It appears that it was proposed to burn the combined Greek fleet, which then rested in the security of peace in a neighboring sea, and thus confirm the naval supremacy of Athens. A similar proposition is now brought before the American Senate. You are asked to destroy a safeguard of freedom, consecrated by solemn compact, under which the country is now reposing in the security of peace, and

¹ Opponents of the Purchase declared at the time that it was unconstitutional. See Volume II, chapter iv

exist—but a mighty propagandist openly favoring and vindicating it; visiting, also, with displeasure all who oppose it.

The Senator then opposed the arguments in favor of the bill.

I am unwilling to admit, sir, that the prohibition of slavery in the Territories is, in any just sense, an infringement of the local sovereignty. Slavery is an infraction of the immutable law of nature, and, as such, cannot be considered a natural incident to any sovereignty, especially in a country which has solemnly declared, in its Declaration of Independence, the inalienable right of all men to life, liberty, and the pursuit of happiness. In an age of civilization, and in a land of rights, slavery may still be tolerated in fact; but its prohibition, within a municipal jurisdiction, by the Government thereof, as by one of the States of the Union, cannot be considered an infraction of natural rights; nor can its prohibition by Congress in the Territories be regarded as an infringement of the local sovereignty, founded, as it must be, on natural rights.

But another argument is pressed, most fallacious in its character. It is asserted that, inasmuch as the Territories were acquired by the common treasure, they are the common property of the whole Union; and, therefore, no citizen can be prevented from moving into them with his slaves, without an infringement of the equal rights and privileges which belong to him as a citizen of the United States. But it is admitted that the people of this very Territory, when organized as a State, may exclude slaves, and in this way abridge an asserted right founded on the common property in the Territory. Now, if this can be done by the few thousand settlers who constitute the State government, the whole argument founded on the acquisition of the Territories by a common treasure seems futile and evanescent.

But this argument proceeds on an assumption which cannot stand. It assumes that slavery is a national institution, and that property in slaves is recognized by the Constitution of the United States. Nothing can be more false. By the judgment of the Supreme Court of the United States, and also by the principles of the common law, slavery is a local municipal institution, which derives its support exclusively from local municipal laws, and beyond the sphere of these laws it ceases to exist, except so far as it may be preserved by the clause for the rendition of fugitives from labor. Madison thought it wrong to admit into the Constitution the idea that there can be no property in man; and I rejoice to believe that no such idea can

thus confirm the supremacy of slavery. To this institution and its partisans the proposition may seem to be advantageous; but nothing can be more unjust. Let the judgment of the Athenian multitude be yours.

Mr. President, it is not only as an infraction of solemn compact, embodied in ancient law, that I arraign this bill. I arraign it also as a flagrant and extravagant departure from the original policy of our fathers, consecrated by their lives, opinions, and acts.

Sir, the original policy of the country, begun under the Confederation, and recognized at the initiation of the new Government, is clear and unmistakable. Compactly expressed, it was *non-intervention by Congress with slavery in the States, and its prohibition in all the national domain*. In this way, the discordant feelings on this subject were reconciled. Slave masters were left at home in their respective States to hug slavery, under the protection of local laws, without any interference from Congress, while all opposed to it were exempted from any responsibility therefor in the national domain. This, sir, is the common ground on which our political fabric was reared; and I do not hesitate to say that it is the only ground on which it can stand in permanent peace.

But the original policy of the Government did not long prevail. The generous sentiments which filled the early patriots, giving to them historic grandeur, gradually lost their power. The blessings of freedom being already secured to themselves, the freemen of the land grew indifferent to the freedom of others. They ceased to think of the slaves. The slave masters availed themselves of this indifference, and, though few in numbers, compared with the non-slaveholders, even in the slave States (according to the late census they are fewer than three hundred thousand), they have, under the influence of an imagined self-interest, by the skillful tactics of party, and especially by an unhesitating, persevering union among themselves—swaying, by turns, both the great political parties—succeeded, through a long succession of years, in obtaining the control of the National Government, bending it to their purposes, compelling it to do their will, and imposing upon it a policy friendly to slavery; offensive to freedom only, and directly opposed to the sentiments of its founders. Our Republic has swollen in population and power; but it has shrunk in character. It is now what it was at the beginning, a republic merely permitting, while it regretted, slavery; tolerating it only where it could not be removed, and interdicting it where it did not

be found there. The Constitution regards slaves always as "persons," with the rights of "persons," never as property. When it is said, therefore, that every citizen may enter the national domain with his property, it does not follow by any rule of logic or of law that he may carry his slaves. On the contrary, he can only carry that property which is admitted to be such by the universal law of nature, written by God's own finger on the heart of man.

Again. The relation of master and slave is sometimes classed with the domestic relations. Now, while it is unquestionably among the powers of any State, within its own jurisdiction, to change the existing relation of husband and wife, and to establish polygamy, I presume no person would contend that a polygamous husband, resident in one of the States, would be entitled to enter the national territory with his harem—his property, if you please—and there claim immunity. Clearly, when he passes the bounds of that local jurisdiction, which sanctions polygamy, the peculiar domestic relation would cease; and it is precisely the same with slavery.

Sir, I dismiss these considerations. The prohibition of slavery in the Territory of Nebraska stands on foundations of adamant, upheld by the early policy of the Fathers, by constant precedent and time-honored compact. It is now in your power to overturn it; you may remove the sacred landmark, and open the whole vast domain to slavery. To you is committed this high prerogative. Our fathers, on the eve of the Revolution, set forth in burning words among their grievances, that George III., "in order to keep open a market where men should be bought and sold, had prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce." Sir, like the English monarch, you may now prostitute your power to this same purpose. But you cannot escape the judgment of the world, nor the doom of history.

It will be in vain that, while doing this thing, you plead, in apology, the principle of *self-government*, which you profess to recognize in the Territories. Sir, this very principle, when truly administered, secures equal rights to all, without distinction of color or race, and makes slavery impossible. By no rule of justice, and by no subtlety of political metaphysics, can the right to hold a fellow-man in bondage be regarded as essential to self-government. The inconsistency is too flagrant. It is apparent on the bare statement. It is like saying *two* and *two* make *three*. In the name of liberty you open the door to slavery. With professions of equal rights on the lips, you trample

on the rights of human nature. With a kiss upon the brow of that fair Territory you betray it to wretchedness and shame. Well did the patriot soul exclaim, in bitter words, wrung out by bitter experience: "Oh, liberty! what crimes are done in thy name!"

In vain, sir, you will plead that this measure proceeds from the North, as has been suggested by the Senator from Kentucky [Mr. Dixon].

It is true that the race of men, "white slaves of the North," described and despised by a Southern statesman, is not yet extinct there. It is one of the melancholy tokens of the power of slavery, under our political system, and especially through the operations of the National Government, that it loosens and destroys the character of Northern men, even at a distance—like the black magnetic mountain in the Arabian story, under whose irresistible attraction the iron bolts, which held together the strong timbers of a stately ship, were drawn out, till the whole fell apart, and became a disjointed wreck. Alas! too often those principles, which give consistency, individuality, and form to the Northern character, which render it staunch, strong, and seaworthy, which bind it together as with iron, are drawn out, one by one, like the bolts of the ill-fated vessel, and from the miserable, loosened fragments is formed that human anomaly—a Northern man with Southern principles. Sir—no such man can speak for the North.

[Here there was an interruption of prolonged applause in the galleries.]

Mr. President, pass this bill, and it will be in vain that you say the slavery question is settled. Sir, *nothing can be settled which is not right*. Nothing can be settled which is adverse to freedom. God, nature, and all the holy sentiments of the heart repudiate any such false seeming settlement.

On the contrary, defeat the bill and you will most truly promote the harmony which you so much desire. You will establish tranquillity throughout the country. Then, at last, sir, the slavery question will be settled. Banished from its usurped foothold under the National Government, slavery will no longer enter, with distracting force, into the national politics—making and unmaking laws, making and unmaking Presidents. Confined to the States, where it was left by the Constitution, it will take its place as a local institution—if, alas! continue it must!—for which we are in no sense responsible, and against which we cannot exert any political power. We shall be relieved from our present painful and irritating connection with

horrors of the French Revolution, in all their frantic ferocity and cruelty, will be nothing compared to the consequences which must flow from such a state of things. The effort to confound castes between whom God has made an indelible distinction would but result in the destruction of one, or the base degradation of the higher class. It is presumptuous, arrogant, and criminal to deal with such elements in the spirit which has manifested itself in the speeches of the gentleman to whom I have referred.

Liberty! Sir, liberty is like fire, which may be used either to warm and preserve the temple in which it is kindled, or to be the means of its destruction. It may be an object of worship, or it may be a means of destruction. They who hold their hands in solemn worship at the fires of Vesta occupy a very different place from those who would light firebrands upon her altar to illuminate the temple in which they have none of the rights of priesthood, nor the spirit of worshippers. They are profane intruders, who cannot perceive the difference between dangerous heat and pure light—such as are willing to fire the edifice, in the belief that it might afford the light of delusive salvation.

There was a remark made by the Senator from Ohio [Mr. Chase] which struck me with more astonishment than any. It was that this bill ought to be defeated, because the slaveholder with his laborers, in the form of slaves, would pollute the soil upon which they settled, and might, by such settlement, exclude foreigners as well as citizens from the non-slaveholding States.

Why, sir, the slaveholder, with his slaves well governed, forms a relation that is innocent enough, and useful enough. I believe that it is a population which Iowa to-morrow would prefer to an inundation of those men coming as emigrants from a foreign country, wholly unacquainted with the institutions of this country.

I am told, however, Mr. President, by another Senator from Ohio [Mr. Wade], who, it seems to me, has taken very contradictory positions, as have the other gentlemen who have sustained him, that the black man, under the sentimental idea contained in the Declaration of Independence, has a right to claim an equality with the white man; and I think that honorable Senator said that, but for his degradation by the master, he would elevate himself to that equality. According to the argument of these gentlemen, at one moment he is the equal of the master and entitled to claim the franchises of a civilized freeman, but the next moment he is so degraded that he pollutes the very

it. The existing antagonism between the North and South will be softened; crimination and recrimination will cease; the wishes of the Fathers will be fulfilled, and this great evil be left to the kindly influences of morals and religion, and the prevailing laws of social economy.

The North and the South, sir, as I fondly trust, amid all differences of opinion, will ever have a hand and a heart for each other; and, believing in the sure prevalence of almighty truth, I confidently look forward to the good time when both will unite, according to the sentiments of the Fathers and the true spirit of the Constitution, in declaring freedom and not slavery national, while slavery and freedom shall be sectional. Then will be achieved that Union, contemplated at the beginning, against which the storms of faction and the assaults of foreign power shall beat in vain, as upon the Rock of Ages; and Liberty, seeking a firm foothold, will have at last whereon to stand and move the world.

Senator Butler replied to Senator Sumner upon the same day.

SENTIMENTALITY VS. STATESMANSHIP

SENATOR BUTLER

After premising that he would (1) show that the Missouri compromise was, instead of a soothing salve, a thorn in the body of the South; (2) that, whatever benefit there was in it to the South had been nullified, and (3) was unconstitutional, he addressed himself to answering Senator Sumner.

I might begin by adopting the remark quoted by the honorable Senator from Massachusetts.

"Oh, Liberty! what crimes have been committed in thy name!"

The blood that lay in pools around the posts of the guillotine would make a historical response, but there may have been, with the French people, some excuse, at least, for their excesses. If, however, the efforts of fanatical organization shall result as that honorable Senator has indicated they must result in breaking down the distinction between the black and the white man, and elevating one, or degrading the other, to an equality, the

soil on which he stands, making it offensive to the white man to be even in his territorial neighborhood. The gentleman said, however, notwithstanding all this, he *guessed* there would be no difference in the races in the sight of God.

Sir, I will not invade the province of God. I will not undertake to say in what point of view the white and the black man may be regarded at the bar of His tribunal. I should regard it as profanity in me to do so. Inequality pervades the creation of this universe.

Yes, sir, with a chain of subordinate links and gradation, all existence upon this earth is connected together, from the lowest worm that crawls upon the earth to the purest angel that burns before the altar of God. Inequality seems to characterize the administration of the providence of God. I will not undertake to invade that sanctuary, but I will say that the abolitionists cannot make those equal whom God has made unequal, in human estimation. That He has made the blacks unequal to the whites, human history, as far as it can take cognizance of the matter, has pronounced its uniform judgment. The judgment of the earth and the history of mankind lead to but one judgment—revealing to us, perhaps, a melancholy truth.

Now, sir, what is the truth in relation to this matter? I am perfectly willing that the blindest fanatic should hear me in regard to it. I should be perfectly willing that even William Lloyd Garrison should hear me. He sends me his paper, and I sometimes read it as a mere matter of curiosity. I am perfectly willing that the blindest fanatic upon earth should hear me upon this subject. Is the black man equal with the white man under human judgment? All history refutes it. Who ever heard of the African astronomer, statesman, general, poet? Who ever heard of the African soaring in those regions in which the Caucasian race have made their greatest developments? Is it not perfectly true, so far as regards the statutory provisions of the Federal and State legislation, that the black man has never been, and never can be, equal with the white man? In your naturalization laws it is provided that none but a white man shall be a citizen of the United States. Under your militia laws, none but a white man can take a musket in the service of the country, or be enrolled among the militia. It is notorious that those very gentlemen who bestow so much tongue-expressed philanthropy upon the black man do not themselves regard him as an equal, and they cannot so regard him.

I appeal to those who hear me, if gentlemen who have gone

to the South, who have lived amid slaveholders, who have partaken of their hospitality, and have seen the administration of justice and all the graver forms of civilization there, are not better reconciled to the institution of slavery than that class and school of persons who read and take in their notions from "Uncle Tom's Cabin"?

Sir, there are various *isms* at the North, and there is but one of them for which I have any respect, and that is Puritanism. The Puritan, who came to this country with the sword in one hand and the Bible in the other, was an honest man, though he may have made a mistake in some of his peculiarities; but when we come to Abolitionism, to Maine-liquor-law-ism, to Strong-minded-woman-ism, Bloomerism, and all the *isms* which now pervade some portions of the North, I am far from supposing that they do infuse into the social system anything like a healthful action. No, sir; they are the cankers of theoretical conceit, of impudent intrusion, and cheerless infidelity.

The most extraordinary development of that class of persons and that temper of society that gives rise to such *isms* is to be found in conventions of women, who step from the sphere prescribed to them by God, to enter into the political arena, and claim the rights of men. I have a profound respect for woman in all the true relations for which she is fitted. Man always has a respect for woman. So long as she confines herself within the jurisdiction prescribed to her by the Almighty, she fulfills the ends of her existence; but when she passes those lines, and undertakes to intrude herself into a jurisdiction not assigned to her, I regard her as committing an impious transgression. Her sphere is higher than that of man—more sublime in spirit, and more useful in moulding society to the obligations of virtue, the influence of religion, and the happiness of affection and friendship. Hers is the sphere of love, and affection, and benevolence. What bounds are there to the sphere of a mother's love, a daughter's and sister's tenderness, or a wife's devotion? I know of none. Washington Irving has beautifully remarked, that the "heart is the woman's world." It is there her ambition should seek for empire, and her avarice seek for hidden treasures. But when she unsexes herself, and puts on the habiliments and claims to exercise the masculine functions of man in society, she has lost the position which she should occupy. When woman violates the law which God has given her, she has no law, and is the creature of hateful anarchy. She may be the worst or the best of human beings. She may approach the angel, or she may assimilate herself to the demon.

The motion of Senator Chase to strike out the clause stating that the restriction of slavery in the Missouri Compromise had been "superseded" was defeated on February 6 by a vote of 30 to 13. Senator Douglas then moved to substitute for the clause the following one:

—which being inconsistent with the principles of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void, it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

This was adopted on February 15 by a vote of 35 to 10.

On March 2 Senator Chase moved to add to this clause the words:

"Under which the people of the Territory, through their appropriate representatives, may, if they see fit, prohibit the existence of slavery therein."

This was voted down by 36 nays to 10 yeas. The bill was passed on March 3 by a vote of 37 to 14.

In the House, says Horace Greeley in his "American Conflict," this bill was not taken up for more than two months after it had passed the Senate. There were scruples to vanquish, objections to remove or to soften, and machinery to adjust, in order to give the measure a chance of success. Meantime, the hum of public dissatisfaction rose louder and louder, and members who were soon to face Northern constituents were reasonably reluctant to vote for it, unless the Democratic majorities in their districts were well-nigh impregnable.

A House bill (nearly a copy of that of Senator Douglas) having been reported on January 31 by Mr. Richardson [Ill.], from the Committee on Territories, William H. English [Ind.]—a most unflinching Democrat—from the minority of said committee, proposed to strike

Senator Butler then paid his respects to Senator Seward, who had elevated himself to the position of protagonist of the anti-slavery cause, chiefly by his enunciation of the "higher law" of obedience to the dictates of conscience rather than to human statutes when the two are in conflict. Senator Seward first used this phrase in March, 1850, in a speech on the Omnibus bill.

I must, Mr. President, deny the claim of the Senator from New York to be the author of the law which he undertakes to administer or propagate. Sir, the teacher of that law was an ancient author. It was no less than the serpent who crept into the Garden of Eden and whispered to Eve that there was a *higher law*. She was banished from the Garden, and Paradise was lost.

At the close of his speech, having elaborated the propositions of his premise, Senator Butler praised Senator Douglas, the author of the bill, for his tactful presentation of it to the Senate and his energy in pressing it to a decision.

A wise man knows how to take advantage of circumstances—in common phrase, to strike when the iron is hot. You had better do a right thing than to content yourself by saying it ought to be done. Words produce wrangle; acts require affirmation or opposition.

If the honorable Senator from Illinois has shown that address, and that judgment, and that wisdom, let him have the honor of it. I know the aspersions which have been thrown upon him. He does not need support from me. He is sustained by his own State. But, sir, the difference between rashness and timidity was never better illustrated than in the conversation between Telemachus and Mentor. Telemachus noticed that Mentor trembled in the consideration of a measure, but became steady after his resolution to pursue it. "Why is this?" said the young man. The reply was, "I may well have trembled, because I saw the danger; but when resolved to meet it I armed myself with the resolution that would enable me to go through with success, or at once to perish." Sir, the Senator from Illinois has embarked upon this question, knowing its perils; and if he shall be sustained by the country he deserves the honor of success.

out the clause which we have seen reported by Mr. Douglas to the Senate, and adopted by that body, repealing the 8th section of the Missouri act, and insert instead the following:

"*Provided*, That nothing in this act shall be so construed as to prevent the people of said Territory, through the properly constituted legislative authority, from passing such laws, in relation to the institution of slavery, as they may deem best adapted to their locality, and most conducive to their happiness and welfare; and so much of any existing act of Congress as may conflict with the above right of the people to regulate their domestic institutions in their own way, be, and the same is hereby, repealed."

It is highly probable that this proposition could not have been defeated on a call of the yeas and nays in the House—which was doubtless the reason why it was never acted on. The House bill was never taken up, save at a late day (May 8), so as to enable the Senate bill to be moved as an amendment.

There was a violent struggle in the House for and against closing the debate on this measure, and it was finally agreed that said debate should terminate on Saturday, May 20.

When the hour for closing the debate had arrived, Alexander H. Stephens [Ga.] moved that the *enacting clause of the bill be stricken out*, which was carried by a preconcerted and uncounteracted rally of the unflinching friends of the measure. Of course, all pending amendments were thus disposed of, the bill being reported as dead. Having thus got the bill out of committee and before the House, Messrs. Stephens & Co. voted, by 117 yeas to 97 nays, *not to agree to the report of the Committee of the Whole*, thus bringing the House to an immediate vote on the engrossment of the bill. Mr. Richardson now moved an amendment in the nature of a substitute (being, in effect, the Senate's bill), and thereupon called the previous question, which was seconded: Yeas, 116; nays, 90; when his amendment was adopted—yeas, 116; nays, 95; the bill ordered to be engrossed—yeas, 112; nays, 99; the previous question

again ordered and sustained, and the bill finally passed: Yeas, 113; nays, 100. Thus the opponents of the measure in the House were precluded from proposing any amendments or modifications whatever, when it is morally certain that, had they been permitted to do so, some such amendment as Senator Chase's or Mr. English's would have been carried.

The free States contributed 44 votes—all cast by Democrats—to the support of this measure. From the slave States, 12 Whigs and 57 Democrats sustained it. Against it were 91 members from free States, of whom 44 were chosen as Whigs, three as "Free Soil" proper, and 44 as Democrats. So that precisely as many Democrats from free States voted for as against the final passage of the Nebraska bill. Only nine members from slave States opposed it, of whom but two had been regarded as Democrats; and of these Thomas H. Benton [Mo.] was not so regarded thereafter. Of the Whigs who so voted, but two were returned to the next House.

The bill had thus passed the House in form as an original measure of that body, although it was in essence the amended Senate bill. Being sent to the Senate as such, an attempt to amend was voted down, and the bill ordered to be engrossed, by 35 yeas to 13 nays. It was immediately passed (on May 24, 1854) and, being approved by President Pierce, became a law of the land.

At the time he proposed to Senator Dixon the repeal of the Missouri compromise Senator Douglas had prophesied that he would be reviled and, perhaps, even mobbed by his constituents for introducing the measure, but he had declared that he would carry out the project for the sake of the Union whatever might be the consequences to himself.

The results justified his prediction. The entire press and public sentiment of Chicago, his home city, were arrayed solidly against him. Nevertheless he boldly faced his fellow citizens. The term of his colleague, General James Shields, was about to expire and, in order to obtain a majority of the Illinois legislature favorable to his reelection, Senator Douglas went to Chicago in

September and attempted to make a speech justifying the course of Shields and himself. He was unable to make himself heard, owing to the hoots and jeers of his audience. He thereupon announced that he would speak in the State capitol on October 5. He did so, presenting in varied and more popular form the arguments he had delivered in the Senate. At the close of his address it was announced that a reply would be made to it on the following day by Abraham Lincoln. Lincoln's opposition in Congress to the Mexican war had been so unpopular with his "jingo" Western constituency that he not only refused to stand for reelection but resolved to devote himself exclusively to the law, wherein he speedily obtained local preëminence. Probably fearing that he might be impelled to break his resolution and to reënter politics he did not join his townsmen as they crowded into the State capitol to hear the bold and brilliant man who had kindled into its fiercest flame the now lambent, now latent, but ever-living issue of early American politics. However, he was irresistibly drawn to the meeting, and entered the Hall of Representatives in which it was held shortly before the close of Douglas's remarks. He probably had not realized before how deeply he felt on the violation of the national pledge in regard to the restriction of slavery in the Territories, but the sophistry of the advocate of this violation, the very sight of one toward whom he had been on principle an inveterate antagonist and whom he believed with all his heart to be the prince of demagogues,¹ caused him to throw to the winds all selfish personal considerations and, in default of an available statesman of Douglas's rank, to enter the lists himself against the redoubtable "Little Giant" as the champion of national faith and human freedom.

On the day appointed Lincoln spoke for three hours,

¹ Lincoln's mantle of "charity for all" was not wide enough to cover the "Little Giant" in the ante-bellum days. Later Lincoln learned that he had misjudged his fellow statesman. This was at the testing of souls in the spring of 1861, when Douglas came to the sorely troubled President and offered his whole-hearted services to the Union cause—an earnest of which he gave soon after in a speech at Chicago, which was the most eloquent of his career as well as his last, since he died a few weeks after delivering it.

delivering a terrible philippic against the Nebraska bill. Douglas himself declared that he had heard nothing like it in the Senate. Unfortunately for the archives of American oratory the speech was not reported. However, its argument has been preserved, and undoubtedly in more finished form, in a speech of the same tenor which Lincoln delivered at Peoria two weeks later (October 16) and in the joint debate with Douglas in 1858 [see Vol. V, chapter III].



YOUNG AMERICA

President Pierce, supported by jingo Democratic statesmen
From the collection of the New York Historical Society

CHAPTER VIII

"BLEEDING KANSAS"

[DEBATES ON THE ADMISSION OF KANSAS INTO THE UNION]

Foundation of the Republican Party: Its Success in the Elections of 1854—President Pierce Sends Special Message to Congress on Kansas in Favor of the Pro-Slavery Party—Answer in the House to the Message by Galusha A. Grow [Pa.]—President Pierce Issues Proclamation Against Interference in Kansas by Men of the Bordering States—House of Representatives Sends Investigating Committee to Kansas—Its Report—Debate on the Report: Anti-Slavery Speakers, Israel Washburn [Me.], Samuel Galloway [O.]; Pro-Slavery Speakers, William H. English [Ind.], Thomas F. Bowie [Md.]—Bill Introduced in the Senate to Admit Kansas into the Union—Debates on the Bill: in Favor of "Popular Sovereignty," Stephen A. Douglas [Ill.], in Favor of Prohibition of Slavery, William H. Seward [N. Y.]—Bill to Admit Kansas Is Passed in the House, but Rejected in the Senate.

ON May 23, 1854, the day after the passage of the Nebraska bill, some thirty members of the House of Representatives met together to plan their future action on the issue. The leader of the meeting, Israel Washburn, Jr. [Me.], assumed the existence of a new party to which they belonged, and used the name "Republican" to designate it—not as an innovation, however, since it was a term already "in the air," having been suggested at a meeting of "anti-Nebraska" men of all former parties, held in Ripon, Wis., March 20. During the course of the year it was adopted at "anti-Nebraska" conventions held in various Northern States.

The name, as we have seen, had been the designation of the anti-Federalists, and remained the official name of that party long after it became popularly known as the Democratic party. Indeed, it was still used by a number of Southern members of that party in Congress in preference to the term Democrat.

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BLEEDING KANSAS

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away and join whatever new party would prove the most successful antagonist of the dominant one.

EVENTS IN KANSAS

Even before the passage of the Kansas-Nebraska bill preparations had been made by the South to introduce slavery into the Territory of Kansas. The only white men in the region were missionaries and Indian agents, who were all Southerners. These men had the first information of the purchase of the Indian reservations in Kansas, which was quietly made by the Government shortly before the passage of the Kansas-Nebraska bill, and they proceeded to organize for the capture of the territorial government. In aid of their project Missourians along the Kansas border formed into various societies, "Blue Lodges," "Sons of the South," etc., with intent to enter the Indian reservations at the earliest possible moment and vote for the introduction of slavery into the new Territory. They did so on the passage of the act, bringing some slaves with them, and holding meetings at which they resolved that "no protection would be afforded Abolitionist settlers in the region," and that "slavery was recognized as already existing in the Territory," and that "slaveholders should introduce their property as early as possible."

The Northern Abolitionists thereupon organized "Emigrant Aid Societies" to promote the migration of anti-slavery men to Kansas. Hearing of this the pro-slavery associations in Kansas and western Missouri held meetings at which they resolved forcibly to remove these Abolitionist immigrants from the Territory.

The first company of Northern immigrants was sent by the New England Emigrant Aid Society. It reached Kansas late in July, 1854, and located at a place which they named after the treasurer of the society [Amos A.] Lawrence. While erecting their houses they were visited by an armed party of Missourians but, on their preparing to defend themselves, their visitors retired without molesting them.

After the demise of the Federalist party "Republican" was the common element in the name of the two new political factions which arose, the broad constitutional constructionists and the protective tariff men, such as Henry Clay, Daniel Webster, calling themselves "National Republicans." When the faction assumed the dimensions of a party, it officially adopted the popular designation of Whig.

Accordingly, since the "anti-Nebraska" faction was composed of the larger portion of the Northern Whigs and all of the Free Soil Democrats, there was a unanimous and spontaneous desire of these elements to assume a term which was endeared to them by former political association.

The regular Democrats, on the other hand, vigorously protested against this assumption, which they considered an unwarranted and almost sacrilegious misuse of the revered name. Accordingly, they attempted at first to fix the name "Black Republican" upon the new party. This, though it seemed most odious to themselves, rather strengthened the anti-Nebraskans with the Northern people, who were becoming more and more opposed not only to slavery in the Territories but also in the States, and so the new party was ensnared to accept the designation and to justify it by taking a more advanced position than its founders had originally intended, declaring war against slavery *per se*. While such a declaration frightened away the more timorous Whigs and Democrats, it secured the adherence of nearly all the Abolitionists, who, though fewer in numbers than the disaffected element, were ardent and successful propagandists, and soon swelled the ranks of the "Black" Republicans with converts that more than made up the balance against them.

In 1854 the new party elected eleven Senators and a plurality of Representatives. It was especially strong in the West, the Eastern men who had become dissatisfied with the old parties preferring to join the Know Nothing party, which, however, was tinged with anti-slavery sentiment and, being a movement of protest rather than fundamental principle, was ready to break

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GREAT AMERICAN DEBATES

The Government of the Territory was organized in the autumn, Andrew H. Reeder [Pa.] being appointed governor by President Pierce. Although an Administration Democrat he was thought by many to be a Free Soiler. In the election held in the Territory in November John W. Whitfield, an Indian agent and a pro-slavery man, was chosen Delegate to Congress. On the advice of Senator David R. Atchison many Missourians crossed the line and voted for Whitfield. About this time a number of pro-slavery men founded a town which they named for the Senator and established a newspaper organ there, called the *Squatter Sovereign*. In an early issue this paper said:

"We can tell the impertinent scoundrels of *The Tribune* that they may exhaust an ocean of ink, their Emigrant Aid Societies spend their millions and billions, their representatives in Congress spout their heretical theories till doomsday, and His Excellency appoint abolitionist after free-soiler as our governor, yet we will continue to lynch and hang, tar and feather and drown, every white-livered abolitionist who dares to pollute our soil."

Early in 1855 Governor Reeder of Kansas ordered an election for a Territorial legislature to be held on March 30. Only two Free-Soilers were elected. Eight times as many votes were counted as there were legal voters in the Territories.

Protests were made against the election of four councilmen and thirteen representatives on the ground of fraud, and, on the presentation of evidence of this, Governor Reeder refused to issue to them certificates and ordered new elections to be held in their districts, whereupon the pro-slavery press of Missouri advocated "hempering" the "infernal scoundrel." At the second election all these districts but Leavenworth elected Free State councilmen and Representatives. These the legislature refused to admit and seated the men who had been supplanted. The legislature met at the call of the governor at Pawnee City, in the interior of the State, and immediately adjourned, over the governor's veto, to Shawnee Mission, on the Missouri border. Here

it adopted as the laws of Kansas Territory the laws of the State of Missouri, including those maintaining slavery and prohibiting the agitation of abolition and punishing the agitators. These acts were vetoed by Governor Reeder, but were passed over his veto. The legislature petitioned the President for his removal, which was in due time effected, Wilson Shannon, a Democrat from Ohio, who had been governor of that State, being appointed in his stead. Shannon took an early opportunity to declare that the acts of the legislature were legal and to announce himself in favor of slavery in Kansas.

In the meantime outrages were committed by pro-slavery mobs, one paper being destroyed which had advocated the rights of the Free Soilers under the law, and its editor forced to flee for his life; and a lawyer of Leavenworth, who had signed the protest against the election in that city, being tarred and feathered, ridden on a rail and finally sold to a negro, who was compelled to purchase him.

The Free Soil settlers held a convention at which they repudiated the legislature and its acts, refused to take part in the election of a delegate to Congress, which had been set by the legislature, and called another delegate convention and a constitutional convention. At the former they elected Governor Reeder as the delegate and at the latter, which was held at Topeka, they formed a Free-State constitution, under which they asked Congress to admit Kansas into the Union.

The events which took place in Kansas during the session of Congress, 1855-56, and to which allusion was made in the debates of the session, were as follows:

An armed conflict between pro-slavery and Free-Soil men arose out of the assassination, on November 21, 1855, of a Free-State settler, William Dow. On an appeal from the pro-slavery sheriff, Governor Shannon issued a proclamation calling out 3,000 militia to "execute the laws." In response to this a pro-slavery army came from the border and encamped on the banks of the Wakarusa River at Franklin, a pro-slavery town near Lawrence. During the encampment, Thomas W.

Barber (or Barbour), a Free State man of the neighborhood, was shot dead by some of the "militia."¹ Finally an armistice was arranged between Governor Shannon and the Free State leaders, and the Missourians dispersed. Thus ended the so-called "Wakarusa War."

Leavenworth was also the scene of many outrages. A band of Missourians entered the town on December 20, 1855, and destroyed the office of the *Territorial Register*, a Free State paper.

On January 15, 1856, the territorial election under the Topeka (Free State) constitution was held. Charles Robinson (Free State) was elected governor (subject to the approval of Congress) and a Free State legislature was chosen. The organization of the territorial government was set for March 1, 1856, to give Congress time to act, it being hoped that Kansas would be admitted into the Union with the Topeka constitution, and the elections made under it would be ratified.

Congress assembled on December 3, 1855. The Democratic majority in the Senate was considerably lessened and no party had a majority in the House. After balloting for several weeks Nathaniel P. Banks [Mass.], a Know-Nothing and anti-Nebraskan, was elected Speaker of the House.

The President in his annual message (on December 31) declared that nothing had taken place in Kansas which warranted interference by the Federal Executive, and expressed the hope that the people of the Territory, by exercising "their right to determine their own domestic institutions" under Federal protection from outside interference, would be able to suppress "organized resistance to territorial law."

On January 26, 1856, George G. Dunn [Ind.] moved in the House of Representatives to restore the Missouri compromise as a means of settling the agitation. The resolution was carried by one vote, 101 yeas to 100 nays, but failed of passage in the Senate.

Outrages by the Missourians, who were called "Border Ruffians" by the Free State men, continued. On January 21 and 22 Robinson and Gen. James H. Lane,

¹ See John G. Whittier's poem, "Burial of Barbour."

leaders of the Free State men, telegraphed to President Pierce, stating that a great invasion was preparing in Missouri and asking him to issue a proclamation against it, and employ Federal troops stationed in Leavenworth to oppose it.

On January 24 the President sent a special message to Congress on the subject. In this he blamed the Emigrant Aid Society for causing the trouble by intervening in the affairs of the Territory in order to defeat the principle of popular sovereignty, and he upheld the organization of the Territory that had been made by the pro-slavery party. He said:

"If the passionate rage of fanaticism and partisan spirit did not force the fact upon our attention, it would be difficult to believe that any considerable portion of the people of this enlightened country could have surrendered themselves to a fanatical devotion to the supposed interests of the relatively few Africans in the United States, as totally to abandon and disregard the interests of the twenty-five millions of Americans."

To this Galusha A. Grow [Pa.], on March 5, alluded at the close of a speech on Kansas:

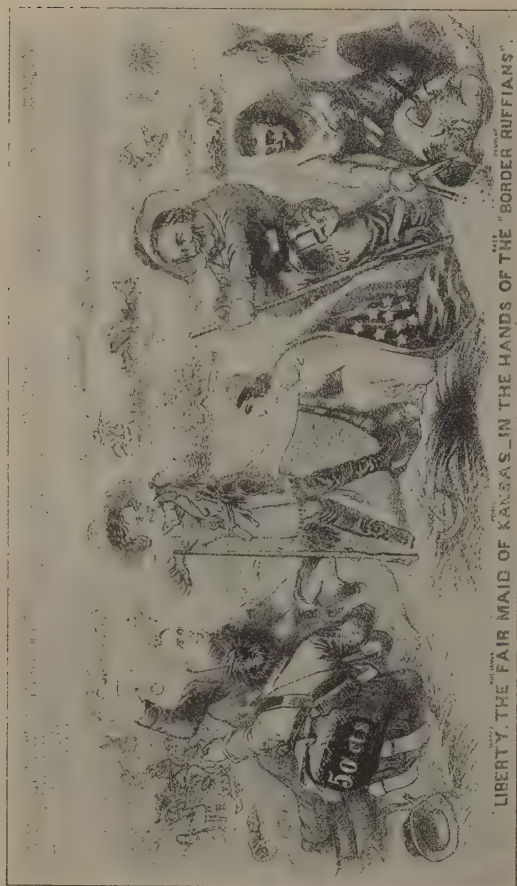
INJURY OF ONE THE INJURY OF ALL

GALUSHA A. GROW, M. C.

The art of the lawyer and the politician is ever to associate names made odious in the public mind with what they wish to destroy, and upon them attempt to excite the prejudice of men.

Sir, the men of the North have not surrendered themselves to a fanatical devotion to the supposed interests of the relatively few Africans in the United States, but they desire to gladden the heart of the patriot forever with the "contemplation of a portion of territory consecrated to freedom, whose soil shall never be moistened by the tear of the slave, or degraded by the step of the oppressor or oppressed."

The rights of the citizens of Kansas are the rights of the twenty-five millions of Americans, and the wrongs of the one should be adopted as the wrongs of the other. If the rights of one man in this country can be trampled upon by legislative enactment the rights of all may. When men are disfranchised



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by law, and deprived of their nearest and dearest rights, and that law rests upon the Government of the country for its validity and its sanction, it comes home to the bosom of every person, no matter in what part of the Republic he lives; and he who would sit quietly down and permit wrong and injustice to be done to a citizen of the country when he could prevent it is guilty of a gross dereliction of duty.

The freemen of Kansas are entitled to your protection. They are entitled to your protection against invasion of the ballot-box, to your protection against unjust laws which violate all their rights, your protection in the freedom of speech and the press. The supervision of all their legislation being under the control of Congress, let it, then, do its duty, and remove from the people these odious enactments which the President has declared must be enforced, and secure to them the free and undisturbed exercise of their civil rights and privileges.

The men of the North are but resisting the attempt to subvert the spirit and genius of the institutions of the Republic; and the effort now making to overturn its well-established policy in legislating for the Territories, the effort to reverse the decision of the courts making slavery a local, sectional institution, resting upon local law for its support, and to nationalize it by throwing over it the shield and the protection of the Constitution and the Union, wherever it goes beyond the jurisdiction of the local laws which gave it support—it is against this doctrine that the men of the North war, and not in behalf of "the relatively few Africans" in the country. Their condition, however deplorable in the States where they exist, is beyond our reach. We must therefore leave them to those who have the control of the laws under which they live. But we insist that the flag of the Union shall float, as heretofore, the emblem of freedom, and under its folds, everywhere, the freedom of speech and of the press and the inalienable rights of men shall be protected.

On February 11 the President issued a proclamation in which he warned all citizens of the States neighboring to Kansas who were contemplating armed intervention in the affairs of that Territory to lay aside their purposes on pain of suppression by the Federal troops; and on the 15th of the month Jefferson Davis, Secretary of War, sent orders to the army officers at Leavenworth to place troops at the disposal of Governor Shannon.

In the spring of 1856 Colonel Buford [Ala.] came

Sixth. That Reeder had, however, received a majority of the resident vote;

Seventh. That a fair election could not be held without a new census, a well-guarded election law, the selection of impartial judges, and the presence of Federal troops;

Eighth. That the Constitution framed by the convention held for that purpose embodied the will of a majority of the residents of the Territory.

A debate ensued in the House of Representatives on this report.

KANSAS CONTESTED ELECTION

HOUSE OF REPRESENTATIVES, MARCH 14, 1856

On March 14 Israel Washburn [Me.] made a long speech in favor of the report of the committee, in the course of which he said:

Gentlemen upon the other side of the question have spoken eloquently in behalf of law and order. The simplicity and apparent sincerity with which they have insisted that law and order were to be respected in this case, by upholding a pretended legislature in Kansas—admitted to be elected in good part by non-residents; elected, as is charged—and this is the question in issue—in contempt of all law, order, and decency, by fraud, force, and unheard-of outrages; and by submitting, uncomplainingly, to the acts of such a body, sitting in fraud of the rights of the people, was indeed admirable; or the irony of their remarks, if they were so intended, was more admirable still. The law must be kept by protecting law-breakers, and sustaining their doings in open violation of all law! Order must be observed by yielding an unquestioning obedience to acknowledged mobs! Sir, we stand for law; this House, I trust, will stand for law and by law, and ascertain what the law is in so far as it is itself concerned, and bound to know and act upon it. It should inquire and investigate to this end, and be careful that the law, rather than the resolutions of marauders, shall control its decisions.

In no State or Territory, upon any question where slavery is not concerned, would such principles and doctrines as we have heard in this debate be avowed. Suppose that an invasion like the one alleged to have been made upon Kansas had been made

with a regiment of young Southerners to Kansas with the purpose of making it a slave State. Their temper may be judged from the fact that they found a Free State emigrant from South Carolina and convicted him of treason, from the mortal penalty of which he escaped with the loss of his money and his horse.

Buford's regiment and the "Platte County Rifles" led by ex-Senator David R. Atchison, General Stringfellow, and others, and armed with weapons from the Federal armory at Leavenworth, entered Lawrence and destroyed the printing offices and burned the Free State Hotel and the residence of Free State Governor Robinson.

A small body of Free State men then arose under the leadership of John Brown of Osawatimie and began to make reprisals for the pro-slavery outrages in the "Battle of Black Jack," capturing, with their plunder, a party that had just sacked Palmyra, a Free State settlement. In reprisal a pro-slavery party under John W. Whitfield, in the absence from the town of Brown and his party, burned Osawatimie on June 5.

On March 10, 1856, the House of Representatives, by a vote of 101 to 93, resolved to send a special committee to Kansas to inquire into the state of anarchy prevailing there. This committee was composed of William A. Howard [Mich.], John Sherman [O.], and Mordecai Oliver [Mo.]. These men immediately proceeded to Kansas and spent several weeks there in an investigation, an exhaustive report of which they presented to Congress on their return. Their conclusions were:

First. That every election in the Territory had been fraudulently carried by organized invasions from Missouri;

Second. That the legislature was therefore an illegal body and its acts were null and void;

Third. That its powers had been used for unlawful purposes;

Fourth. That the choice of Whitfield as delegate to Congress was illegal;

Fifth: That the election of the contesting delegate, ex-Governor Reeder, was illegal;

upon Minnesota from Canada, and that under similar circumstances of fraud and force a legislature had been imposed upon that Territory; and then that under its pretended laws a delegate elected by Canadians had been sent here—where is the man who would consent that Canada should be permitted in this way to be represented in this House? Oh! sir, nothing but the system of slavery—its necessities for strange and unfounded assumptions and demands—could suggest or permit such opinions and claims as have been set up here. They must not be tolerated for a moment. Does any man imagine that those to whom they are addressed do not perceive how utterly unsound and groundless they are? Should they submit to them they would acknowledge their unfaithfulness or incapacity, and justly become the scorn or pity of mankind.

Mr. Speaker, for the sake of slavery solemn compacts of long standing, deliberately entered into and with mutual considerations, have been destroyed; pledges of faith and honor have been cast like worthless weeds away; the great writ of right, sacred for centuries to the protection of mankind—the *habeas corpus*—has been struck down; the trial by jury, the palladium of civil right and personal security, born of the conflicts of liberty with despotism, and baptized in the blood of men struggling to be free, consecrated in our hearts as the ancient and indefeasible heritage of the people, guarded by the Constitution, stands against all assaults except those of slavery; and, as if these things were not enough, we are now told that the instruments of this sectional interest, its gangs and invading armies, may enter and seize upon our infant Territories, our own Territories, under the immediate and especial protection of the general Government—subjugate the people rightfully residing there, make laws and elect delegates for them; and this House, in its absolute and unrestricted power to judge of the elections of its members, has no authority to inquire into their proceedings, or to resist the admission of such delegates upon this floor.

Slavery, in its claims and demands of to-day, is so much greater and better than anything else, nay, than all things else, that to protect and strengthen it is held to justify the destruction of whatever stands in its way. The rules of the House are broken down by unscrupulous majorities, and less than a quorum of members permitted to report bills from the Committee of the Whole to the House at its call. Laws are set aside, and compromises violated for its sake, and nothing is held sacred against its assaults. The great idea of the Declaration of Independence, and which has given its author a name that

"Through the ages,
Living in historic pages,
Brighter grows and gleams immortal,"

is pronounced in the Senate of the United States "a self-evident lie." All memories and hopes, all possessions and rights—the Constitution, the Union, the living Gospel of "peace on earth and good will to men," are but flax and stubble when exposed to the consuming flame of this insatiate and inexorable system.

On March 17 Samuel Galloway [O.] spoke in favor of the report:

Mr. Speaker, this Kansas Legislature has, by its legislation, utterly violated the *great fundamental principle* (popular sovereignty) of the organic act of the Territory; and hence all its enactments contravening the constitutional law of the Territory are void.

Now, sir, I respectfully ask that gentleman, and all in this House who concur with him in sentiment, whether that "*fundamental principle*" is not totally subverted by these enactments against free speech in regard to slavery?

Mr. Speaker, if you, or I, to-day, in any company in Kansas, were to express the very common, and as we think very reasonable, sentiments that free labor was more profitable and vastly more pleasant than slave labor, and that the people would be richer, happier, and holier with the benefits of freedom than with the blessings of slavery, we would be liable to arrest; and, although *perfectly free*, we might in a short time have the glorious experience of the *perfection* of our freedom within the walls of a prison—a place not usually regarded as affording the largest liberty.

Suppose some meek minister of Christianity, not fully having the fear of the law in his heart, should, while declaring the whole counsel of God, in a moment of unusual spiritual excitement utter such scriptural sentiment as—"Is not this the fast that I have chosen, to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free, and that ye break every yoke?" "Whatsoever ye would that men should do to you, do ye even so to them"—might not some "popular sovereignty" Democrat, innocently suspecting that such words contained "innuendoes," at least calculated to excite "*disorderly and dangerous disaffections*," arrest him, and start him in the straight and narrow way to a place where he would not be so *perfectly free* to preach the *free* gospel of "peace on earth

Why, sir, if that matchless orator and matchless man, Henry Clay, were to-day alive, and were to stand up (as *he only* could stand) on the Territory of Kansas, and utter this sentiment, which a few years since he uttered in the Senate Hall—

"I repeat that I never can, and never will, vote—and no earthly power will make me vote—to spread slavery over territory where it does not exist!"—

—for such a sentiment that prince among the people would be made a prisoner among debased felons. Were the eccentric and eloquent Randolph of Roanoke alive, and were he to utter in the free Territory of Kansas these thoughts, once proclaimed on this floor—

"Sir, I know there are gentlemen, not only from the Northern but from the Southern States, who think that this unhappy question—for such it is—of negro slavery, which the Constitution has vainly attempted to blink by not using the term, should never be brought into public notice, more especially into that of Congress, and most especially here. Sir, with every due respect for the gentlemen who think so, I differ from them *toto calo*. Sir, it is a thing which cannot be hid. It is not a dry rot, that you can cover with the carpet until the house tumbles about your ears. You might as well try to hide a volcano in full operation—it cannot be hid—it is a cancer in your face, and must be treated *secundum artem*!"—

—how certain and severe would be his condemnation. Why, we *Black Republicans* could not begin to imitate and utter such thrilling thoughts and burning words, and so eminently calculated to excite *disorderly and dangerous disaffections*—certainly, such fanaticism would send him to the felon's cell.

I will not consume the time of the House with further quotations. Everybody knows that the language I have read was such as was used by the noble men of our Republic in every section of our Confederacy twenty years ago; yet, in Kansas, this day, all those men, for the utterance of such sentiments, would be branded with infamy! And can it be that the national legislature will tolerate men who thus tarnish the fair fame of their fathers, and violate the spirit and letter of our charter of rights? Will the North submit to it? Never. With the poet, we can fervently say:

"Is this the land our fathers loved?
The freedom which they fought to win?
Is this the soil they trod upon?
Are these the graves they slumber in?
Are we the sons by whom are borne
The mantles which the dead have worn?"

and good-will to men," if not in *his own way*, at least in the way prescribed by the pious legislators in Kansas?

Suppose, on the 4th of July, some patriotic and fervent patriot should read from the Declaration of Independence: "We hold these truths to be self-evident: that all men are created free and equal; that they are endowed with certain inalienable rights, among which are life, liberty, and the pursuit of happiness"; might not some descendant of those sires of the Revolution who first uttered those sentiments, which then and since have been known and felt to produce *disorderly and dangerous disaffections*, arrest the imprudent orator, and put him in a place where he would be free to meditate on the blessings of liberty?

"*Perfectly free?*" So were those victims whom the fabled robber Procrustes placed upon his iron bed. They enjoyed a *free* use of their legs; but, if they were not adapted to the principles of his legislation, he stretched them if they were too short, and lopped them off if they were too long, to suit the length of his law in regard to *free* legs. Tantalus, also, in his fabled hell, was *perfectly free* to eat and drink. To be sure, when he undertook to exercise his liberty of drinking, the water retreated from his lips, but yet he was *free* to use what he could not get. He was *perfectly free* to eat of the rich clusters of grapes that hung above him, but when he attempted to seize them the wind blew them from his grasp. So with the *water* of political salvation, and rich clusters of the grapes of freedom around and over the people of Kansas. As soon as the thirsty and hungry for freedom attempt to eat or drink, although *perfectly free* to do so, they are seized and imprisoned for exercising their appetites in *their own way*.

Mr. Speaker, it is not many years since the thunders of the people were directed against a President and Congress of the United States for their usurpation and arbitrary stretch of power in causing to be enacted the memorable "sedition law." Thomas Jefferson, the great apostle of Democracy, and his disciples, have ever denounced it as a despotic violation of the liberty of speech and of the press. Yet, sir, that law, in all its alleged enormities, was not comparable with this sedition law of the Kansas Assembly. Under that odious law of 1798 one might offer the truth in evidence in defence: under this infamous law of 1854, enacted and advocated by the same disciples of the same Democracy, this poor privilege is denied; and the "head and front of the offending" consists in uttering the great truths of liberty.

And shall we crouch above their graves
With craven soul and fettered lip,
Yoked in with marked and branded slaves,
And tremble at the master's whip?
Not by their enlarging souls, which burst
The bands and fetters round them set;
By the free pilgrim-spirit, nursed
Within our inmost bosoms—yet
By all above, around, below,
Be ours the indignant answer—No!"

On March 18 William H. English [Ind.] closed a long speech against the report with the charge that fraud and intimidation had been used in other places than Kansas without a subsequent investigation by Congress.

Sir, Kansas is not the only place where men have been deprived of their political rights, and the purity of the ballot-box sullied by fraud and violence. Let gentlemen look nearer home. Will they—dare they attribute to the Nebraska bill those terrible scenes which sent a thrill of horror throughout the length and breadth of the land, enacted at the elections in some of the States—ay, sir, in the very heart of boasted civilization and refinement—and which, for unprovoked atrocity, and for cold-blooded and deliberate outrage, are without a parallel, and so far exceed anything that has transpired in Kansas, even supposing the most distorted and exaggerated abolition accounts to be true, that, in comparison, the conduct of the "border ruffians" sinks into utter insignificance?

Sir, what have we seen? We have seen eminent patriots and statesmen denied the freedom of speech; we have seen armed mobs placed as judges of the elective franchise; we have seen quiet, inoffensive, and respected citizens brutally assaulted and driven from the polls for daring to exercise, in a peaceable manner, rights secured to them by the Constitution and the laws; we have seen the ballot-box itself—that sheet-anchor of American freedom—seized by armed bullies, and committed to the flames, or the ballots scattered to the winds, and trampled beneath their ruffian feet; we have seen race arrayed against race, neighborhood against neighborhood, and religion against religion; we have seen men driven by prejudice, intolerance, and passion to deeds of violence and bloodshed which sicken the heart—sparing neither age nor sex, and extending even to the sanctuary of God! All this, sir, and more, have we seen, *outside of the Ter-*

ritory of Kansas; and if you would find its true origin look to your secret, oath-bound, political organizations—to the doctrines of political proscription and religious intolerance—and not to the great principles of equality and popular sovereignty contained in the Nebraska bill.

On March 19 Thomas F. Bowie [Md.] spoke against the report, concluding as follows:

Mr. Speaker, I have heard with deep regret the denunciations of our Northern brethren against the slave States of this Union. They speak of them as an "oligarchy of slavery," and, in the language of Mr. Seward, "the aristocracy of slavery." Sir, why such terms are used I cannot comprehend, unless it be that those who employ them are themselves *aristocrats*, and *envy* the Southern States the aristocracy of their own institutions. Sir, I believe Mr. Seward "has let the cat out of the bag," and that this is the true secret of all their opposition to Southern slave-holders, "*et hinc ille lachryma*."¹ The aristocracy of slavery! Sir, the aristocracy of the North is the aristocracy of white slavery—the cold, heartless, selfish, cruel, and despotic power of wealth—which brings to its feet, as an humble suppliant, the labor of the white man. The poorer classes there are ground down to the earth; and the only question among them is who can make the other *work for him*, a species of *white slavery* that I utterly abhor. Sir, I was born and have lived all my life among Southern slaveholders, and I can tell Mr. Seward, "*et id omne genus*,"² what the aristocracy of Southern slavery is. It is, in fact, the aristocracy of nature, and not the aristocracy of conventional deceptions. It is the aristocracy of enlightened intelligence, of love, of kindness, of magnanimity, of honor, of generosity, of valor, of independence, of hospitality, and, above all, of indomitable energy. And if, in the patriotism of the North, they can hate aristocracy like this, I do not envy them the emotion of their hearts.

Sir, if this question has been sprung upon the South for no other purpose than to insult and abuse them, I fear the times, indeed, forbode great evils. I warn gentlemen "to look well before they leap," for he who soweth the storm must expect to reap the whirlwind. If the seeds of discord and disunion are to be scattered among the States of this our beloved and glorious country, accursed be the evil genius that lends a helping hand! May the arm that is now uplifted to strike down the stars and

¹"And hence these tears."

²"And all that class."

to admit the State of Kansas for the benefit of the negro. It must be for the benefit of the white man.

SENATOR DOUGLAS.—Am I to understand the Senator that he has abandoned the cause of the negro upon the ground that his freedom and equality are inconsistent with the rights of the white man? What has become of his professions of sympathy for the poor negro? What are we to think of the sincerity of his professions upon this subject?

SENATOR SEWARD.—That is another thing.

SENATOR DOUGLAS.—That is the very thing. If all other considerations are to be made to yield to the paramount object of prohibiting slavery in Kansas upon the ground that the inequality which it imposes is unjust to the negro, will that injustice be removed by adopting a constitution which in effect declares that the negro, whether free or slave, shall never tread the soil, nor drink the water, nor breathe the air of Kansas? The Senator from New York admits that the Constitution with which he proposes by his bill to admit Kansas contains such a provision. Under the code of laws enacted by the territorial legislature of Kansas, which the Senator, in common with his party, professes to consider monstrous and barbarous, a negro may go to Kansas and be protected in all his rights so long as he obeys the laws of the land. In order to get rid of those laws the Senator from New York proposes to give effect to a constitutional provision which is designed to prevent the negro forever from entering the State!

I should like to hear from the Senator from New York on this point.

SENATOR SEWARD.—I need scarcely inform the honorable Senator that I do not approve of any such provision in any constitution in the world. I never did, and I never shall, vote to approve or sanction in any constitution, or in any law, a provision which tends to keep any man, any member of the human family to which I belong, in a condition of degradation below the position which I occupy myself, except for his own fault or crime.

SENATOR DOUGLAS.—The Senator does not approve of this provision, and never can, for the reason that it does not put the negro on an equality with himself! Then, will he vote for admitting Kansas in this irregular manner, and without the requisite population, merely because her constitution has a provision which keeps slaves from going into the Territory, while in another clause "which tends to keep a man, any being, a member of the human family to which he belongs, in a condition of

stripes of this great confederacy be palsied by the benignant power of an overruling Providence! May we once more, sir, become a happy and a united people, and, living in the bonds of fraternal love, present as a living spectacle to the world an enduring monument of national greatness!

Delegate Whitfield retained his seat notwithstanding all the efforts of the Republican Representatives to expel him.

A bill inspired by Stephen A. Douglas was reported in the Senate on March 20 from the Committee on Territories, authorizing the people of Kansas to form a constitution and State government preparatory to their admission as a State when they had the requisite population (93,420). Senator William H. Seward [N. Y.] moved a substitute bill organizing the State under the Free State (Topeka) constitution. Upon the former bill Stephen A. Douglas [Ill.] spoke on April 4, denouncing the Republican Senators, Seward in particular, as inconsistent for desiring to admit Kansas under the Topeka constitution, which provided that no negro, free or slave, should be permitted within the State.

SQUATTER SOVEREIGNTY

SENATE, APRIL 4-MAY 13, 1856

SENATOR DOUGLAS.—While the Senator from New York [Mr. Seward] is portraying the beauties of negro freedom and equality, and demonstrating the propriety of sacrificing the political and constitutional rights of twenty millions of white people for the benefit of three millions of negroes, I would be glad if he would point out the advantages which the negro will derive from the admission of Kansas with the Topeka constitution. That constitution provides that as long as Kansas shall be a State, as long as water runs and grass grows, no negro, free or *slave*, shall ever live or breathe under that constitution.

SENATOR SEWARD.—Does the Senator wish me to answer now?

SENATOR DOUGLAS.—Yes, sir.

SENATOR SEWARD.—Then, my answer is that, such being the Constitution, he is wrong in his premises that I am desirous

degradation below the position which he occupies himself? Yet, if he votes for his own bill to admit Kansas with the Topeka constitution, according to his own doctrine he does vote to sanction a provision to keep the negro out altogether; he will not allow a negro to come in a condition either below him or above him!

SENATOR SEWARD.—You can take it either way—above or below.

SENATOR DOUGLAS.—Yes; he will exclude the negro absolutely if he is below or above him! He will insist upon having the negro upon a footing of entire and perfect equality with himself. Yet, if his bill passes, and Kansas is admitted with the constitution which has been formed and presented here, all negroes, both free and slave, are forever prohibited from entering the State of Kansas by the terms of the instrument. He cannot escape the responsibility of this result on the plea that he does not vote directly to indorse and sanction the constitution in all its parts; for his doctrine, and the doctrine of his party, is that they not only have the right, but that it is their duty, to examine the constitution in all its parts, and vote for it or against it, according as they approve or disapprove of its provisions, and especially those provisions which degrade the negro below the level of the white man. He must abandon all the principles to which his life has been devoted; he must abandon the creed of the party of which he is the acknowledged leader, before he can vote for his own bill. The Black Republican party was organized and founded on the fundamental principle of perfect and entire equality of rights and privileges between the negro and the white man—an equality secured and guaranteed by a law higher than the Constitution of the United States. In your creed, as proclaimed to the world, you stand "pledged against "the admission of any more slave States";

To repeal the fugitive slave law;

To abolish the slave trade between the States;

To prohibit slavery in the District of Columbia;

To restore the prohibition on Kansas and Nebraska; and

To acquire no more territory unless slavery shall be first prohibited.

This is your creed, authoritatively proclaimed. I trust there is to be no evading or dodging the issues—no lowering of the flag. Let each party stand by its principles and the issues as you have presented them and we have accepted them. Let us have a fair, bold fight before the people, and then let the verdict be pronounced.

SENATOR SEWARD.—You will have it.

SENATOR DOUGLAS.—I rejoice in this assurance. I trust the Senator will be able to bring his troops up to the line, and to hold them there. I trust there is to be no lowering of the flag—no abandonment or change of the issues. There are rumors afloat that you are about to strike your colors; that you propose to surrender each one of these issues, not because you do not profess to be right, but because you cannot succeed in the right; that you propose to throw overboard all the bold men who distinguished themselves in your service in fighting the anti-Nebraska fight, and to take a new man, who, in consequence of not being committed to either side, will be enabled to cheat somebody by getting votes from both sides!

We are prepared to give you a fair fight on the issues you have tendered and we accepted. Let the presidential contest be one of principle alone; let the principles involved be distinctly stated and boldly met, without any attempts at concealment or equivocation; let the result be a verdict of approval or disapproval so emphatic that it cannot be misunderstood. One year ago you promised us a fair fight in open field, upon the principles of the Kansas-Nebraska act. You then unfurled your banner, and bore it aloft in the hands of your own favorite and tried leaders, with your principles emblazoned upon it. Are you now preparing to lower your flag, to throw overboard all your tried men who have rendered service in your cause, and issue a search warrant in hopes of finding a new man who has not antagonized with anybody, and whose principles are unknown, for the purpose of cheating somebody by getting votes from all sorts of men? Let us have an open and a fair fight. [Applause in the galleries.]

A bill to admit Kansas was prepared by the Territorial Committee of the House of Representatives. On June 30 it was rejected by one vote—106 yeas to 107 nays; later it was reconsidered and passed by a vote of 99 to 97. It was rejected by the Senate.

THE ASSAULT ON SUMNER

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"CONSPIRATORS" VS. "SLANDERER"

SENATOR SUMNER

Before entering upon my argument I must say something in response to what has fallen from Senators who have raised themselves to eminence on this floor in championship of human wrongs; I mean the Senator from South Carolina [Mr. Butler], and the Senator from Illinois [Mr. Douglas], who, though unlike as Don Quixote and Sancho Panza, yet, like this couple, sally forth together in the same adventure. I regret much to miss the elder Senator from his seat; but the cause against which he has run a tilt with such activity of animosity demands that the opportunity of exposing him should not be lost; and it is for the cause that I speak. The Senator from South Carolina has read many books of chivalry, and believes himself a chivalrous knight, with sentiments of honor and courage. Of course he has chosen a mistress to whom he has made his vows, and who, though ugly to others, is always lovely to him; though polluted in the sight of the world, is chaste in his sight—I mean the harlot, Slavery. For her his tongue is always profuse in words. Let her be impeached in character, or any proposition made to shut her out from the extension of her wantonness, and no extravagance of manner or hardihood of assertion is then too great for this Senator. The frenzy of Don Quixote, in behalf of his wench, Dulcinea del Toboso, is all surpassed. The asserted rights of slavery, which shock equality of all kinds, are cloaked by a fantastic claim of equality. If the slave States cannot enjoy what, in mockery of the great Fathers of the Republic, he misnames equality under the Constitution—in other words, the full power in the National Territories to compel fellow-men to unpaid toil, to separate husband and wife, and to sell little children at the auction block—then, sir, the chivalric Senator will conduct the State of South Carolina out of the Union! Heroic knight! Exalted Senator! A second Moses come for a second exodus!

But not content with this poor menace, which we have been twice told was "measured," the Senator, in the unrestrained chivalry of his nature, has undertaken to apply opprobrious words to those who differ from him on this floor. He calls them "sectional and fanatical"; and opposition to the usurpation in Kansas he denounces as "an uncalculating fanaticism." To be sure, these charges lack all grace of originality and all sentiment of truth; but the adventurous Senator does not hesitate.

CHAPTER IX

THE ASSAULT ON SENATOR SUMNER

Philippic in the Senate by Charles Sumner Against the Pro-Slavery Conspirators Against Freedom in Kansas—Replies by Stephen A. Douglas [Ill.] and James M. Mason [Va.]—Representative Preston J. Brooks [S. C.] Assails Sumner in Senate Chamber—Sen. Henry Wilson Describes the Assault—A Committee of Investigation Is Appointed by the Senate—The Committee Reports That a Breach of Senatorial Privilege Was Committed, and Recommends that the Matter Be Laid Before the House of Representatives for Action; the Recommendation Is Adopted—Massachusetts Legislature Passes Resolutions Denouncing Brooks—Senator Andrew P. Butler [S. C.] Defends Brooks—House of Representatives Appoints Investigating Committee—Report of a Majority of the Committee States that a "Breach of Privilege" Had Been Committed, and Recommends Expulsion of Brooks from the House and Reprimand of Henry A. Edmundson [Va.] and Lawrence M. Keitt [S. C.], for Their Connection with the Assault—Minority Report Finds No Breach of Privilege Had Been Committed, and Recommends That No Action Be Taken—Anson Burlingame [Mass.] Denounces Brooks—House Refuses to Expel Brooks, Reprimands Keitt, and Refuses to Reprimand Edmundson—Resignation of Brooks: His Defiant Speech—His Subsequent Career.

ON May 19, 1856, Charles Sumner [Mass.], in a carefully prepared speech on the bill for admitting Kansas into the Union, delivered the most notable philippic in the annals of American forensic oratory. Dealing exhaustively with its subject, "The Crime Against Kansas," it necessarily included much of the arguments already presented. This part has therefore been omitted in favor of the special indictment in the speech of the conspirators against the liberty of Kansas—of whom the Senator particularly pilloried Senator Andrew P. Butler of South Carolina and Senator Stephen A. Douglas of Illinois.

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GREAT AMERICAN DEBATES

He is the uncompromising, unblushing representative on this floor of a flagrant *sectionalism*, which now domineers over the Republic, and yet with a ludicrous ignorance of his own position—unable to see himself as others see him—or with an effrontery which even his white head ought not to protect from rebuke, he applies to those here who resent his *sectionalism* the very epithet which designates himself. The men who strive to bring back the Government to its original policy, when Freedom and not Slavery was national, while Slavery and not Freedom was sectional, he arraigns as *sectional*. This will not do. It involves too great a perversion of terms. I tell that Senator that it is to himself, and to the "organization" of which he is the "committed advocate," that this epithet belongs. I now fasten it upon them. For myself, I care little for names; but, since the question has been raised here, I affirm that the Republican party of the Union is in no just sense *sectional*, but, more than any other party, *national*; and that it now goes forth to dislodge from the high places of the Government the tyrannical *sectionalism* of which the Senator from South Carolina is one of the maddest zealots.

To the charge of fanaticism I also reply. Sir, fanaticism is found in an enthusiasm or exaggeration of opinions, particularly on religious subjects; but there may be a fanaticism for evil as well as for good. Now, I will not deny that there are persons among us loving liberty too well for their personal good in a selfish generation. Such there may be, and, for the sake of their example, would that there were more! In calling them "fanatics" you cast contumely upon the noble army of martyrs, from the earliest day down to this hour; upon the great tribunes of human rights, by whom life, liberty, and happiness on earth have been secured; upon the long line of devoted patriots, who, throughout history, have truly loved their country; and upon all who, in noble aspirations for the general good and in forgetfulness of self, have stood out before their age and gathered into their generous bosoms the shafts of tyranny and wrong, in order to make a pathway for Truth. You discredit Luther, when alone he nailed his articles to the door of the church at Wittenberg, and then, to the imperial demand that he should retract, firmly replied, "Here I stand; I cannot do otherwise, so help me God!" You discredit Hampden, when alone he refused to pay the few shillings of ship-money, and shook the throne of Charles I; you discredit Milton, when, amid the corruptions of a heartless court, he lived on, the lofty friend of Liberty, above question or suspicion; you discredit Russell and Sidney, when,

for the sake of their country, they calmly turned from family and friends to tread the narrow steps of the scaffold; you discredit those early founders of American institutions, who preferred the hardships of a wilderness, surrounded by a savage foe, to injustice on beds of ease; you discredit our later fathers, who, few in numbers and weak in resources, yet strong in their cause, did not hesitate to brave the mighty power of England, already encircling the globe with her morning drum-beats. Yes, sir, of such are the fanatics of history, according to the Senator. But I tell that Senator that there are characters badly eminent, of whose fanaticism there can be no question. Such were the ancient Egyptians, who worshiped divinities in brutish forms; the Druids, who darkened the forests of oak, in which they lived, by sacrifices of blood; the Mexicans, who surrendered countless victims to the propitiation of their obscene idols; the Spaniards, who, under Alva, sought to force the Inquisition upon Holland, by a tyranny kindred to that now employed to force slavery upon Kansas; and such were the Algerines, when in solemn conclave, after listening to a speech not unlike that of the Senator from South Carolina, they resolved to continue the slavery of white Christians, and to extend it to the countrymen of Washington! Ay, sir, extend it! And in this same dreary catalogue faithful history must record all who now, in an enlightened age and in a land of boasted freedom, stand up, in perversion of the Constitution and in denial of immortal truth, to fasten a new shackle upon their fellow-men. If the Senator wishes to see fanatics let him look round among his own associates; let him look at himself.

As the Senator from South Carolina is the Don Quixote, the Senator from Illinois [Mr. Douglas] is the squire of slavery, its very Sancho Panza, ready to do all its humiliating offices. Standing on this floor, the Senator issued his rescript, requiring submission to the usurped power of Kansas; and this was accompanied by a manner—all his own—such as befits the tyrannical threat. Very well. Let the Senator try. I tell him now that he cannot enforce any such submission. The Senator, with the slave power at his back, is strong; but he is not strong enough for this purpose. He is bold. He shrinks from nothing. Like Danton, he may cry, "*l'audace! l'audace! toujours l'audace!*"¹ but even his audacity cannot compass this work. The Senator copies the British officer, who, with boastful swagger, said that with the hilt of his sword he would cram the "stamps" down the throats of the American people, and he will meet a similar

¹"Boldness, boldness, always boldness."

not be heard in defence, and denounced as a "thief," even as the agent of Kansas has been assaulted on this floor, and denounced as a "forger." And let not the vanity of the Senator be inspired by the parallel with the British statesmen of that day; for it is only in hostility to freedom that any parallel can be recognized.

But it is against the people of Kansas that the sensibilities of the Senator are particularly aroused. Coming, as he announces, "from a State"—ay, sir, from South Carolina—he turns with lordly disgust from this newly formed community, which he will not recognize even as "a body-politic." Pray, sir, by what title does he indulge in this egotism? Has he read the history of "the State" which he represents? He cannot surely have forgotten its shameful imbecility from slavery, confessed throughout the Revolution, followed by its more shameful assumptions for slavery since. He cannot have forgotten its wretched persistence in the slave trade as the very apple of its eye, and the condition of its participation in the Union. He cannot have forgotten its constitution, which is republican only in name, confirming power in the hands of the few, and founding the qualifications of its legislators on "a settled freehold estate and ten negroes." And yet the Senator, to whom that "State" has in part committed the guardianship of its good name, instead of moving, with backward treading steps, to cover its nakedness, rushes forward, in the very ecstasy of madness, to expose it by provoking a comparison with Kansas. South Carolina is old; Kansas is young. South Carolina counts by centuries; where Kansas counts by years. But a beneficent example may be born in a day; and I venture to say that against the two centuries of the older "State" may be already set the two years of trial, evolving corresponding virtue, in the younger community. In the one is the long wall of slavery; in the other the hymns of freedom. And if we glance at special achievements it will be difficult to find anything in the history of South Carolina which presents so much of heroic spirit in an heroic cause as appears in that repulse of the Missouri invaders by the beleaguered town of Lawrence, where even the women gave their effective efforts to freedom. The matrons of Rome, who poured their jewels into the treasury for the public defence—the wives of Prussia, who, with delicate fingers, clothed their defenders against French invasion—the mothers of our own Revolution, who sent forth their sons, covered over with prayers and blessings, to combat for human rights, did nothing of self-sacrifice truer than did these women on this occasion. Were the whole history of South Caro-

failure. He may convulse this country with civil feud. Like the ancient madman, he may set fire to this temple of constitutional liberty, grander than Ephesian dome; but he cannot enforce obedience to that tyrannical usurpation.

The Senator dreams that he can subdue the North. How little that Senator knows himself or the strength of the cause which he persecutes! He is but a mortal man; against him is an immortal principle. With finite power he wrestles with the infinite, and he must fall. Against him are stronger battalions than any marshaled by mortal arm—the inborn, ineradicable, invincible sentiments of the human heart; against him is nature in all her subtle forces; against him is God. Let him try to subdue these.

At the close of his speech Senator Sumner returned to this personal attack upon Senators Butler and Douglas, adding to the objects of his philippic Senator James M. Mason of Virginia. In connection with Butler and Mason he attacked the character of the States which they represented.

With regret, I come again upon the Senator from South Carolina [Mr. Butler], who, omnipresent in this debate, overflowed with rage at the simple suggestion that Kansas had applied for admission as a State; and, with incoherent phrases, discharged the loose expectation of his speech, now upon her representative, and then upon her people. There was no extravagance of the ancient parliamentary debate which he did not repeat; nor was there any possible deviation from truth which he did not make, with so much of passion, I am glad to add, as to save him from the suspicion of intentional aberration. But the Senator touches nothing which he does not disfigure—with error, sometimes of principle, sometimes of fact. He shows an incapacity of accuracy, whether in stating the Constitution or in stating the law, whether in the details of statistics or the diversions of scholarship. He cannot open his mouth but out there flies a blunder. Surely he ought to be familiar with the life of Franklin; and yet he referred to this household character, while acting as agent of our fathers in England, as above suspicion; and this was done that he might give point to a false contrast with the agent of Kansas—not knowing that, however they may differ in genius and fame, in this experience they are alike: that Franklin, when intrusted with the petition of Massachusetts Bay, was assaulted by a foul-mouthed speaker, where he could

lina blotted out of existence, from its very beginning down to the day of the last election of the Senator to his present seat on this floor, civilization might lose—I do not say how little; but surely less than it has already gained by the example of Kansas, in its valiant struggle against oppression, and in the development of a new science of emigration. Already in Lawrence alone there are newspapers and schools, including a high school, and throughout this infant Territory there is more mature scholarship far, in proportion to its inhabitants, than in all South Carolina. Ah, sir, I tell the Senator that Kansas, welcomed as a free State, will be a "ministering angel" to the Republic when South Carolina, in the cloak of darkness which she hugs, "lies howling."

The Senator from Illinois [Mr. Douglas] naturally joins the Senator from South Carolina in this warfare, and gives to it the superior intensity of his nature. He thinks that the National Government has not completely proved its power, as it has never hanged a traitor; but, if the occasion requires, he hopes there will be no hesitation; and this threat is directed at Kansas, and even at the friends of Kansas throughout the country. Again occurs the parallel with the struggles of our Fathers, and I borrow the language of Patrick Henry, when, to the cry from the Senator, of "treason," "treason," I reply, "if this be treason, make the most of it." Sir, it is easy to call names; but I beg to tell the Senator that if the word "traitor" is in any way applicable to those who refuse submission to a tyrannical usurpation, whether in Kansas or elsewhere, then must some new word, of deeper color, be invented, to designate those mad spirits who would endanger and degrade the Republic, while they betray all the cherished sentiments of the Fathers and the spirit of the Constitution, in order to give new spread to slavery. Let the Senator proceed. It will not be the first time in history that a scaffold erected for punishment has become a pedestal of honor. Out of death comes life, and the "traitor" whom he blindly executes will live immortal in the cause.

"For Humanity sweeps onward; where to-day the martyr stands,
On the morrow crouches Judas, with the silver in his hands;
While the hooting mob of yesterday in silent awe return,
To glean up the scattered ashes into history's golden urn."¹

Among these hostile Senators there is yet another, with all the prejudices of the Senator from South Carolina, but without his generous impulses, who, on account of his character before

¹"The Present Crisis," by James Russell Lowell.

the country, and the rancor of his opposition, deserves to be named. I mean the Senator from Virginia [Mr. Mason], who, as the author of the Fugitive Slave bill, has associated himself with a special act of inhumanity and tyranny. Of him I shall say little, for he has said little in this debate, though within that little was compressed the bitterness of a life absorbed in the support of slavery. He holds the commission of Virginia; but he does not represent that early Virginia, so dear to our hearts, which gave to us the pen of Jefferson, by which the equality of men was declared, and the sword of Washington, by which Independence was secured; but he represents that other Virginia, from which Washington and Jefferson now avert their faces, where human beings are bred as cattle for the shambles, and where a dungeon rewards the pious matron who teaches little children to relieve their bondage by reading the Book of Life. It is proper that such a Senator, representing such a State, should rail against free Kansas.

Senators such as these are the natural enemies of Kansas, and I introduce them with reluctance simply that the country may understand the character of the hostility which must be overcome. Arrayed with them, of course, are all who unite, under any pretext or apology, in the propagandism of human slavery. To such, indeed, the time-honored safeguards of popular rights can be a name only, and nothing more. What are trial by jury, habeas corpus, the ballot-box, the right of petition, the liberty of Kansas, your liberty, sir, or mine, to one who lends himself, not merely to the support at home, but to the propagandism abroad, of that preposterous wrong, which denies even the right of a man to himself! Such a cause can be maintained only by a practical subversion of all rights. It is, therefore, merely according to reason that its partisans should uphold the usurpation in Kansas.

Senator Douglas replied to Senator Sumner's attack upon him as follows:

I shall not detain the Senate by a detailed reply to the speech of the Senator from Massachusetts. Indeed, I should not deem it necessary to say one word, but for the personalities in which he has indulged, evincing a depth of malignity that issued from every sentence, making it a matter of self-respect with me to repel the assaults which have been made.

As to the argument, we have heard it all before. The Senator seems to get up a speech as in Yankee land they get up a bed

that he would ever show his face among such a body of men? How dare he approach one of those gentlemen to give him his hand after that act? If he felt the courtesies between men he would not do it. He would deserve to have himself spit in the face for doing so.

This charge is made against the body of which we are members. It is not a charge made in the heat of debate. It is not made as a retort growing out of an excited controversy. If it were of that nature I could make much allowance for it. I can pay great deference to the frailties and the impulses of an honorable man, when indignant at what he considers to be a wrong. If the Senator, betraying that he was susceptible of just indignation, had been goaded, provoked, and aggravated, on the spur of the moment, into the utterance of harsh things, and then apologized for them in his cooler hours, I could respect him much more than if he had never made such a departure from the rules of the Senate, because it would show that he had a heart to appreciate what is due among brother Senators and gentlemen. But, sir, it happens to be well known, it has been the subject of conversation for weeks, that the Senator from Massachusetts had his speech written, printed, committed to memory, practiced every night before the glass with a negro boy to hold the candle and watch the gestures, and annoying the boarders in the adjoining rooms until they were forced to quit the house! [Laughter.] It was rumored that he read part of it to friends, and they repeated in all the saloons and places of amusement in the city what he was going to say. The libels, the gross insults which we have heard to-day have been conned over, written with cool, deliberate malignity, repeated from night to night in order to catch the appropriate grace, and then he came here to spit forth that malignity upon men who differ from him—for that is their offence.

Mr. President, I ask what right has that Senator to come here and arraign three-fourths of the body for a dereliction of duty? Is there anything in the means by which he got here to give him a superiority over other gentlemen who came by the ordinary means? Is there anything to justify it in the fact that he came here with a deliberate avowal that he would never obey one clause of the Constitution of the United States, and yet put his hand upon the Holy Bible, in the presence of this body, and appealed to Almighty God to witness that he would be faithful to the Constitution with a pledge to perjure his soul by violating both that oath and the Constitution? He came here with a pledge to perjure himself as the condition of eligibility to the

quilt. They take all the old calico dresses of various colors, that have been in the house from the days of their grandmothers, and invite the young ladies of the neighborhood in the afternoon, and the young men to meet them at a dance in the evening. They cut up these pieces of old dresses and make pretty figures, and boast of what beautiful ornamental work they have made, although there was not a new piece of material in the whole quilt. [Laughter.] Thus it is with the speech which we have had rehashed here to-day in regard to matters of fact, matters of law, and matters of argument—everything but the personal assaults and the malignity.

I beg pardon; there is another point. We have had another dish of the classics served up—classic allusions, each one only distinguished for its lasciviousness and obscenity—each one drawn from those portions of the classics which all decent professors in respectable colleges cause to be suppressed, as unfit for decent young men to read. Sir, I cannot repeat the words. I should be condemned as unworthy of entering decent society if I repeated those obscene, vulgar terms which have been used at least a hundred times in that speech. It seems that his studies of the classics have all been in those haunts where ladies cannot go, and where gentlemen never read Latin. [Laughter.] I have no disposition to follow him in that part of his speech.

The Senator's endeavor seems to be an attempt to whistle to keep up his courage by defiant assaults upon us all. I am in doubt as to what can be his object. He has not hesitated to charge three-fourths of the Senate with fraud, with swindling, with crime, with infamy, at least one hundred times over in his speech. Is it his object to provoke some of us to kick him as we would a dog in the street, that he may get sympathy upon the just chastisement?

Who are the Senators thus arraigned? He does me the honor to make me the chief. It was my good luck to have such a position in this body as to enable me to be the author of a great, wise measure, which the Senate has approved, and the country will indorse. That measure was sustained by about three-fourths of all the members of the Senate. It was sustained by a majority of the Democrats and a majority of the Whigs in this body. It was sustained by a majority of Senators from the slaveholding States and a majority of Senators from the free States. The Senator by his charge of crime, then, stultifies three-fourths of the whole body, a majority of the North, nearly the whole South, a majority of Whigs, and a majority of Democrats here. He says they are infamous. If he so believed, who could suppose

place. Has he a right to arraign us because we have felt it to be our duty to be faithful to that Constitution which he disavows—to that oath which he assumes and then repudiates?

The Senate have not forgotten the debate on the Fugitive Slave law, when that Senator said, in reply to a question whether he was in favor of carrying into effect that clause of the Constitution for the rendition of fugitive slaves—"Is thy servant a dog that he should do this thing?" A dog—to do what you swore you would do! A dog—to be true to the Constitution of your country! A dog—to be true to your oath! A dog—unless you are a traitor! That was his position; and still he comes here and arraigns us for crime, and talks about "audacity!" Did mortal man ever witness such audacity in an avowed criminal? He comes here with a pledge to defy the Constitution of his country, and the wrath of God, by not obeying his oath, and then talks about audacity. In what does my audacity, of which he speaks, consist? It consists in the fact that, coming from a free State, born in a free State, with associations all around me tinged strongly with anti-slavery, when I was elected to the Senate, and took an oath to be true to the Constitution, I would not violate that oath, even in obedience to a popular prejudice at home. My crime consists in saying to my people, "So long as that Constitution requires the fugitive slave to go back, so long will I, as a citizen or a representative, be faithful to that clause of the Constitution, as well as to every other." I tell the people with whom I live that I do not desire a man to represent me who, for the sake of getting an office, will take an oath to be true to the Constitution, with a secret pledge to violate it. I do not wish to have a man on the bench to administer justice who, in order to get the place, will take an oath to be faithful to the Constitution and then repudiate both the Constitution and the oath. I tell my people, "If you want perjurers to represent you get the men who believe in a higher law than the Constitution! Because I am faithful to the Constitution of my country I am arraigned as a conspirator, as a traitor, as a man guilty of crime. Is there any other reason? If I would follow the popular prejudice of the section where I was born, where I live, and where I hope to die; if I would fan the flame of sectional excitement and strife to the very point of consuming this glorious temple of freedom, I should be as pure a man, and as pure a patriot, as these men who live under constitutions which they do not respect, and will not obey! I have been burned and hung in effigy under the advice and arrangement of these conspirators here because of my fidelity to the Constitution of the country,

and to the principles to which I stood pledged, and which my judgment approved.

I have stood by my principles, by my pledges, by the Constitution, and by my oath. If I had abandoned them I could have had the applause of all these Black Republican leaders.

Now, sir, this dealing in general terms of insult; this talk about crime, treachery, and swindling; this indulgence in coarse, vulgar denunciation against three-fourths of the body to which you belong, does not meet the points between us. You challenged me to this great issue, which you say you have made up between the negro worshippers and the "slave power," as you call it. What you call the slave power is simply observance of the Constitution of the country, as our fathers made it. Let us have that fair issue between the parties, and let us discuss that, instead of dealing in denunciation against one another here. I wish the Senate to bear in mind that, in the many controversies in which I have been engaged since I have been a member of this body, I never had one in which I was not first assailed. I have always stood on the defensive. You arrange it on the opposite side of the House to set your hounds after me, and then complain when I cuff them over the head and send them back yelping. I never made an assault on any Senator; I have only repelled attacks.

The attack of the Senator from Massachusetts now is not on me alone. Even the courteous and the accomplished Senator from South Carolina [Mr. Butler] could not be passed by in his absence.

SENATOR MASON.—Advantage was taken of it.

SENATOR DOUGLAS.—It is suggested that advantage is taken of his absence. I think that is a mistake. I think the speech was written and practiced, and the gestures fixed; and, if that part had been stricken out, the Senator would not have known how to repeat the speech. [Laughter.] All that tirade of abuse must be brought down on the head of the venerable, the courteous, and the distinguished Senator from South Carolina. I shall not defend that gentleman here. Every Senator who knows him loves him. He, however, will be here in due time to speak for himself, and to act for himself, too. I know what will happen. The Senator from Massachusetts will go to him, whisper a secret apology in his ear, and ask him to accept that as satisfaction for a public outrage on his character! I know how the Senator from Massachusetts is in the habit of doing those things. I have had some experience of his skill in that respect.

Why these attacks on individuals by name and two-thirds

connect his name with untruth—for he did so—he presented himself here as one utterly incapable of knowing what truth is—utterly incapable of conceiving the perceptions of an honorable mind, when directed to the investigation of truth. He presented himself as the cunning artificer or forger, who knows no other use of truth than to give currency to falsehood; who uses the beaten gold to enable him to pass off the false coin; who distinguishes between that which is pure metal and that which is not so, only to enable him to deceive those who have trusted him here.

But, Mr. President, I did not intend to be betrayed into this debate. I have said that the necessity of political position alone brings me into relations with men upon this floor who elsewhere I cannot acknowledge as possessing manhood in any form. I am constrained to hear here depravity, vice in its most odious form uncoiled in this presence, exhibiting its loathsome deformities in accusation and vilification against the quarter of the country from which I come; and I must listen to it because it is a necessity of my position, under a common Government, to recognize as an equal, politically, one whom to see elsewhere is to shun and despise. I did not intend to be betrayed into this debate; but I submit to the necessity of my position. I am here now united with an honored band of patriots, from the North equally with the South, to try if we can preserve and perpetuate those institutions which others are prepared to betray, and are seeking to destroy; and I will submit to the necessity of that position at least until the work is accomplished.

Mr. President, the first criminal known to the world, in the complaint which instigated him to crime, declared only that the offering of his brother was more acceptable than his. It was the complaint of Cain against Abel, and he avenged it by putting that brother to death, and then went forth with the primeval curse upon his brow. In the fortunes of those who are enlisted with the Senator from Massachusetts against this confederation now, let them go, as Cain did, with the curse upon their brow of fraternal homicide, but with the still deeper guilt that they instigate others to shed blood when they shed none themselves.

SENATOR SUMNER replied: To the Senator from Illinois I should willingly leave the privilege of the common scold—the last word; but I will not leave to him, in any discussion with me, the last argument, or the last semblance of it. He has crowned the audacity of this debate by venturing to rise here and calumniate me. He has said that I came here, took an oath to support the Constitution, and yet determined not to support a particular

of the Senate collectively? Is it the object to drive men here to dissolve social relations with political opponents? Is it to turn the Senate into a bear garden, where Senators cannot associate on terms which ought to prevail between gentlemen? These attacks are heaped upon me by man after man. When I repel them it is intimated that I show some feeling on the subject. Sir, God grant that when I denounce an act of infamy I shall do it with feeling, and do it under the sudden impulses of feeling, instead of sitting up at night writing out my denunciation of a man whom I hate, copying it, having it printed, punctuating the proof-sheets, and repeating it before the glass, in order to give refinement to insult, which is only pardonable when it is the outburst of a just indignation.

Senator James M. Mason [Va.] replied to Senator Sumner's attack upon him as follows:

Mr. President, the necessities of our political position bring us into relations and associations upon this floor which, in obedience to a common Government, we are forced to admit. They bring us into relations and associations which, beyond the walls of this Chamber, we are enabled to avoid—associations here, whose presence elsewhere is dishonor, and the touch of whose hand would be a disgrace. They are the necessities of our political position; and yet, Mr. President, it is not easy to bear them. Representing our States here, under a Constitution which we came here to obey, we are constrained to listen, from day to day, from sources utterly irresponsible, to language to which no gentleman would subject himself elsewhere. I say it is difficult to bear. We bear it from respect to the obligations of the Constitution, and in obedience to the constitutional trust which we have undertaken to perform.

Sir, the Senator who here represents Massachusetts undertook to-day to assail the absent—to assail one honorable man who honored this Chamber when he was a member of this body, but who is no longer a member, and to assail him when he was at the distance of some two thousand miles from his presence; and to assail him how? Assuming to be the Cicero of the occasion, to denounce him as a Catiline!

I am not here to vindicate absent gentlemen. The Senator from South Carolina will return in good time to his place. I will say this, however, in the presence of the Senate, that when the Senator from Massachusetts dared, in this Chamber, and among those who know the Senator from South Carolina, to

clause in that Constitution. To that statement I give, to his face, the flattest denial. When it was made on a former occasion on this floor by the absent Senator from South Carolina [Mr. Butler] I then repelled it. I will read from the debate of the 28th of June, 1854, as published in the *Globe*, to show what I said in response to that calumny when pressed at that hour.

I proceeded to read from the memorable veto by President Jackson, in 1832, of the Bank of the United States. It will be remembered that to his course, at that critical time, were opposed the authority of the Supreme Court and his oath to support the Constitution, precisely as the Senator from Illinois now, with ignorance, or with a want of logic greater than his ignorance, undertakes to revile me. Here is the triumphant reply of President Jackson:

"If the opinion of the Supreme Court covers the whole ground of this act, it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it, and not as it is understood by others."

I concluded on this point in these words:

"I desire to say that, as I understand the Constitution, this clause does not impose upon me, as a Senator or citizen, any obligation to take part, directly or indirectly, in the surrender of a fugitive slave."

Sir, this is the Senate of the United States, an important body, under the Constitution, with great powers. Its members are justly supposed, from age, to be above the intemperance of youth, and from character to be above the gusts of vulgarity. They are supposed to have something of wisdom and something of that candor which is the handmaid of wisdom. Let the Senator bear these things in mind, and let him remember hereafter that the bowie-knife and bludgeon are not the proper emblems of senatorial debate. Let him remember that the swagger of Bob Acres and the ferocity of the Malay cannot add dignity to this body. The Senator has gone on to infuse into his speech the venom which has been sweltering for months—ay, for years; and he has alleged facts that are entirely without foundation, in order to heap upon me some personal obloquy. I will not go into the details which have flowed out so naturally from his tongue. I only brand them to his face as false. I say, also, to that Senator, and I wish him to bear it in mind, that no person with the upright form of man can be allowed—[Hesitation.]

SENATOR DOUGLAS.—Say it.

SENATOR SUMNER.—I will say it—no person with the upright form of man can be allowed, without violation of all decency, to switch out from his tongue the perpetual stench of offensive personality. Sir, that is not a proper weapon of debate, at least, on this floor. The noisome, squat, and nameless animal, to which I now refer, is not a proper model for an American Senator. Will the Senator from Illinois take notice?

SENATOR DOUGLAS.—I will; and therefore will not imitate you, sir.

SENATOR SUMNER.—I did not hear the Senator.

SENATOR DOUGLAS.—I said if that be the case I would certainly never imitate you in that capacity, recognizing the force of the illustration.

SENATOR SUMNER.—Mr. President, again the Senator has switched his tongue, and again he fills the Senate with its offensive odor.

I pass from the Senator from Illinois. There was still another, the Senator from Virginia, who is now also in my eye. That Senator said nothing of argument, and, therefore, there is nothing of that for response. I simply say to him that hard words are not argument; frowns not reasons; nor do scowls belong to the proper arsenal of parliamentary debate. The Senator has not forgotten that on a former occasion I did something to exhibit on this floor the plantation manners which he displayed. I will not do any more now.

SENATOR MASON.—Manners of which that Senator is unconscious.

SENATOR DOUGLAS.—I am not going to pursue this subject further. I will only say that a man who has been branded by me in the Senate, and convicted by the Senate of falsehood, cannot use language requiring reply, and therefore I have nothing more to say.

THE ASSAULT ON SUMNER

The great severity with which Senator Sumner had spoken against South Carolina and one of her Senators [Andrew P. Butler] caused Preston S. Brooks, a Representative from that State and a relative of Senator Butler, to commit a physical assault upon the offending Senator from Massachusetts two days after the speech [on May 22, 1856].

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perform the duties that belong to him as a member of this body.

Sir, to assail a member of the Senate out of this Chamber, "for words spoken in debate," is a grave offence, not only against the rights of the Senator, but the constitutional privileges of this House; but, sir, to come into this Chamber and assault a member in his seat until he falls exhausted and senseless on this floor is an offence requiring the prompt and decisive action of the Senate.

Senators, I have called your attention to this transaction. I submit no motion. I leave it to older Senators, whose character—whose position in this body, and before the country, eminently fit them for the task of devising measures to redress the wrongs of a member of this body, and to vindicate the honor and dignity of the Senate.

On motion of William H. Seward [N. Y.] a committee of investigation was elected. On May 28 the committee made its report. After presenting the facts of the case and various parliamentary precedents and rules relating to a breach of privilege of one House of legislation by a member of another, chiefly the rule laid down by Thomas Jefferson in his "Manual of Parliamentary Practice," to the effect that complaint of the breach should be laid before the other House, and punishment be left to it, the committee gave it as its opinion that this should be the disposition of the case. This was agreed to by the Senate with only one dissenting vote, that of Robert Toombs [Ga.].

Later, upon the return of Andrew P. Butler [S. C.] to the Senate and the development in the House of Representatives of a strong opposition to the expulsion from that body of Mr. Brooks, there was manifested in the upper House a disposition to reconsider the resolution that had been passed on the recommendation of the investigating committee.

THE ASSAULT ON SUMNER

SENATE, JUNE 12, 1856

On June 12 Senator Andrew P. Butler [S. C.], aspersions upon whom had caused Mr. Brooks, who was

The nature of the assault was thus described by Senator Sumner's colleague, Henry Wilson, on the day following the outrage:

Mr. President, the seat of my colleague is vacant to-day. That seat is vacant to-day for the first time during five years of public service. Yesterday, after a touching tribute of respect to the memory of a deceased member of the House of Representatives, the Senate adjourned. My colleague remained in his seat,



SOUTHERN CHIVALRY—CLUBS VERSUS ARGUMENT
From the collection of the New York Historical Society

busily engaged in his public duties. While thus engaged, with pen in hand, and in a position which rendered him utterly incapable of protecting or defending himself, Mr. Preston S. Brooks, a member of the House of Representatives, approached his desk unobserved, and abruptly addressed him. Before he had time to utter a single word in reply he received a stunning blow upon the head from a cane in the hands of Mr. Brooks, which made him blind and almost unconscious. Endeavoring, however, to protect himself, in rising from his chair his desk was overthrown; and while in that condition he was beaten upon the head by repeated blows, until he sunk upon the floor of the Senate exhausted, unconscious, and covered with his own blood. He was taken from this Chamber to the ante-room, his wounds were dressed, and then by friends he was carried to his home and placed upon his bed. He is unable to be with us to-day to

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his relative, to make the assault, spoke in behalf of the assailant, the occasion being the presentation to the Senate of resolutions, by the State of Massachusetts, condemnatory of the assault upon its Senator.

Senator Butler claimed that Senator Sumner had provoked the assault by his aspersions on South Carolina, and it was these that had aroused Brooks, as a loyal son of the State, to the only expression of resentment open to him.

What was my friend to do? Sue the libeler? Indict him? If that was the mode in which he intended to take redress he had better never go to South Carolina again. Was he to challenge him? That would have been an exhibition of chivalry having no meaning. Although he has been upon the field, both in open war and in a private affair, I should be very sorry to see any crisis requiring it again. A challenge would have been an advertisement to the world of his courage, when there was not a probability of its being tried. He would have made himself contemptible, and perhaps might have been committed to the penitentiary for sending a challenge.

Then, what course was left to him to pursue? Mr. Sumner had opportunities enough to make an apology. God knows I could not have resisted the admonitory criticism of the distinguished Senator from Michigan [Lewis Cass], perhaps the most imposing authority in the Senate. He paid no regard to him, and for a very good reason: his speech was written, and had gone out, and he could not contradict what he had sent forth to the public with malice aforethought.

Well, sir, what did Mr. Brooks do? It is said he sought Mr. Sumner in the Senate Chamber. It is the last place in which he wished to seek him. He would have met him in an open combat, on a fair field, and under a free sky, at any time. And when the legislature of Massachusetts chooses to say that his conduct is cowardly let her try him in any way she chooses. [Applause.]

THE PRESIDENT *pro tempore*.—Persons in the galleries will distinctly understand that if there be any further demonstration the galleries will be cleared of all except ladies.

WILLIAM P. FESSENDEN [Me.].—In justice to the galleries, I will suggest that the impression on this side of the House is that the disturbance came from the floor of the Senate Chamber, and not from the galleries. I hope the galleries will not be punished for the act of persons on the floor.

Sir, a man who occupies a place in the Senate, representing

a great commonwealth like Massachusetts, occupies a very high position, from which he can send forth to the public what may affect the character of any man except some one upon whose character the verdict of history has been rendered. For this reason I would never look, and I never have looked, beyond the public position of a member here, to go into his private and personal character. I would not do it because by so doing I should do a wrong which I could not redress. We are in a position which requires high considerations for the regulation of our conduct. I agree thoroughly with General Jackson, that the slanderer who involves third persons in difficulty and danger is an incendiary, against whom we should guard more than any one else, in a parliamentary point of view. I will quote General Jackson's language. He said: "Over the doors of each House of Congress, in letters of gold, should be inscribed the words, 'The Slanderer Is Worse than the Murderer.'" A single murder is horrible. It may take a single individual from society. But when I look at the mischievous influence of slander I find that it pervades a whole community; makes war in society; sets family against family; individual against individual; section against section. It is the most cowardly mode in which a war can be conducted.

With the state of opinion to which I have alluded prevailing, what did Mr. Brooks do? He thought Mr. Sumner deserved a castigation, and he undertook to give it to him according to the old-fashioned notion, by caning him. Mr. Brooks, not finding him anywhere else, came to him while he was sitting in his seat here, after the Senate had adjourned. He came to him in front—different from the statement made to the Massachusetts legislature. He was half a minute in his proem or explanation. He said: "Mr. Sumner, I have read your speech. I have read it carefully, with as much consideration, and forbearance, and fairness as I could; but, sir, I have come to punish you now for the contents of that speech, which is a libel on my State and on a gray-haired relative."

Instinct would have prompted most men to rise immediately. Mr. Sumner did rise. In the act of rising Mr. Brooks struck him across the face—not, as has been represented, over his head, for that is not the truth, nor is it borne out by the testimony. On the second stroke the cane broke. It is the misfortune of Mr. Brooks to have incurred all the epithets which have been used in regard to an assassin-like and bludgeon attack, by the mere accident of having a foolish stick, which broke. It broke again; and it was not, as I understand, until it came very near the

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nounced to be a libel, and I were the judge before whom an action were brought—if a man brought before me could show that another insulted his mother, or his father, or his sister, or himself, or his country, I would say to the man who inflicted the blow, "My duty is to fine you; you are not justified by the law; but it is my privilege to say that, while I will enforce the law and maintain its dignity, I shall fine you as small a sum as I possibly can within my discretion."

BREACH OF PRIVILEGE

[ASSAULT ON SENATOR SUMNER]

HOUSE OF REPRESENTATIVES, JUNE 2, 1856

The House appointed a committee consisting of three Northern and two Southern Representatives to investigate the assault and report upon it. On June 2 two reports, a majority one by the Northern Representatives, Lewis D. Campbell [O.], Francis E. Spinner [N. Y.], and Alexander M. Pennington [N. J.], and a minority one by the Southern Representatives, Howell Cobb [Ga.] and Alfred B. Greenwood [Ark.], were presented to the House. The former report declared that the assault had been committed without warning and with "a weapon of deadly character" and that "the blows were indiscriminately dealt at the hazard of the life of the assailed," and that it had been "premeditated during a period of at least two days, without any other provocation than words lawfully spoken in debate in the Senate Chamber, not ruled out of order by the President of the Senate, nor objected to by any Senator as violative of the rules . . . of that body." The majority of the committee also found that two Representatives, Henry A. Edmundson [Va.], and Lawrence M. Keitt [S. C.], had been previously informed of the intent of Mr. Brooks to commit the assault and of the time and place of its probable occurrence; that they were in a room adjoining the Senate Chamber at the time of the assault, and that Mr. Keitt "rushed up with a cane in a threatening manner when the bystanders

handle, that he inflicted blows which he would not have inflicted if he had an ordinary weapon of a kind which would have been a security against breaking.

It has gone through the country that Mr. Brooks struck him after he was prostrate on the floor. None who know this young man could entertain such an idea. Notwithstanding all that has been said of his brutality, he is one of the best tempered fellows I ever knew—impetuous, no doubt, and quick in resentment—but he did not intend what has been assigned to him.

After all that has been said and done, on a *post bellum* examination, what is it? A fight in the Senate Chamber, resulting in two flesh wounds, which ought not to have detained Mr. Sumner from the Senate. Being rather a handsome man, perhaps he would not like to expose himself by making his appearance for some time; but if he had been in the army there was no reason why he should not go to the field the next day, and he would deserve to be cashiered if he did not go.

For this transaction, as I have detailed it, and without the intelligence which I have detailed being before them, the legislature of Massachusetts have sent their resolutions here. These resolutions are without a precedent in the history of this country. I hope other Senators will speak to them, for they are not only an insult to South Carolina and her representatives in Congress, but I think they assail the Constitution of the country.

Taking all these things into consideration, indicted as Mr. Brooks has been by an *ex parte* accusation, without evidence, without even the finding of a grand jury, what is his position? If a civil action were brought by Mr. Sumner against Mr. Brooks for assault and battery I pledge myself that, with all the resources he could bring to his command, he would be able to reduce the verdict to a penny damages. What would be the state of the pleadings? Mr. Brooks struck Mr. Sumner would be the allegation. It would be admitted that he struck him, and inflicted two flesh wounds. Mr. Sumner would reply, "I am a Senator of the United States; and although the Senate was not in session I was in that sacred temple, and my character is so sacred under the privileges of the Senate that I am not to be assailed." What would Mr. Brooks' counsel rejoin? The rejoinder would be, "Sir, you had profaned and disgraced the seat you occupied before you were struck."

Then the question would be, what is this privilege so much spoken of—freedom of debate? The court would examine the question, whether what was said was privileged within the rules of the Senate, or whether it was a libel. If it should be pro-

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attempted to protect Mr. Sumner from the blows of Mr. Brooks and that Mr. Edmundson entered the Chamber soon after Mr. Sumner fell." The majority refused "to discuss the powers of the House to punish its disorderly members" nor to "argue the general question as to what constitutes a breach of privilege." It closed by recommending that Brooks be expelled from the House and that the House declare its disapprobation of the acts of Edmundson and Keitt.

The minority report quoted that portion of Senator Sumner's speech which related to South Carolina and Senator Butler, who was absent at the time, as the provocation for Mr. Brooks' assault, and briefly described the assault as "repeated and severe blows" with "a walking stick." It found that Edmundson and Keitt previously knew of the assailant's intention and did not communicate the fact to Senator Sumner, but stated that there was no evidence that they knew of the time and place at which the assault was to occur.

The minority report entered into a long discussion of "breach of privilege," citing examples from the history of the British Parliament to show the construction by that body of what constitutes a breach, and the extreme penalties imposed at its sole discretion. This practice, the report contended, should not be used as a precedent by Congress.

Holding, as we do, that neither House has any privileges except those which are written and declared either in the Constitution or some law or rule passed in pursuance thereof, and that the facts developed by the evidence show no violation of any such written and recognized privileges, we recommend the adoption of the following resolution:

Resolved, That this House has no jurisdiction over the assault alleged to have been committed by the Hon. Preston S. Brooks, a member of this House from the State of South Carolina, upon the Hon. Charles Sumner, a Senator from the State of Massachusetts; and therefore deem it improper to express any opinion on the subject.

On June 21 Anson Burlingame [Mass.] spoke upon the assault on Senator Sumner.

BULLY BROOKS AND HIS GANG

ANSON BURLINGAME, M. C.

On the 19th of May it was announced that Mr. Sumner would address the Senate upon the Kansas question. The floor of the Senate, the galleries, and avenues leading thereto were thronged with an expectant audience; and many of us left our places in this House to hear the Massachusetts orator. To say that we were delighted with the speech we heard would but faintly express the deep emotions of our hearts awakened by it. I need not speak of the classic purity of its language, nor of the nobility of its sentiments. It was heard by many; it has been read by millions. There has been no such speech made in the Senate since the days when those Titans of American eloquence—the Websters and the Haynes—contended with each other for mastery.

It was severe because it was launched against tyranny. It was severe as Chatham was severe when he defended the feeble colonies against the giant oppression of the mother country. It was made in the face of a hostile Senate. It continued through the greater portion of two days; and yet, during that time, the speaker was not once called to order. This fact is conclusive as to the personal and parliamentary decorum of the speech. He had provocation enough. His State had been called hypocritical. He himself had been called "a puppy," "a fool," "a fanatic," and "a dishonest man." Yet he was parliamentary from the beginning to the end of his speech. No man knew better than he did the proprieties of the place, for he had always observed them. No man knew better than he did parliamentary law, because he had made it the study of his life. No man saw more clearly than he did the flaming sword of the Constitution, turning every way, guarding all the avenues of the Senate. But he was not thinking of these things; he was not thinking then of the privileges of the Senate nor of the guarantees of the Constitution; he was there to denounce tyranny and crime, and he did it. He was there to speak for the rights of an empire, and he did it, bravely and grandly.

So much for the occasion of the speech. A word, and I shall be pardoned, about the speaker himself. He is my friend; for many and many a year I have looked to him for guidance and light, and I never looked in vain. He never had a personal enemy in his life; his character is as pure as the snow that falls on his native hills; his heart overflows with kindness for every

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and gallantry attributed to him, must loathe and scorn the act. God knows I do not wish to speak unkindly, or in a spirit of revenge; but I owe it to my manhood and the noble State I, in part, represent, to express my deep abhorrence of the act. But much as I reprobate the act, much more do I reprobate the conduct of those who were by, and saw the outrage perpetrated. Sir, especially do I notice the conduct of that Senator recently from the free platform of Massachusetts,¹ with the odor of her hospitality on him, who stood there, not only silent and quiet while it was going on, but, when it was over, approved the act. And worse, when he had time to cool, when he had slept on it, he went into the Senate Chamber of the United States and shocked the sensibilities of the world by approving it. Another Senator² did not take part because he feared his motives might be questioned, exhibiting as extraordinary a delicacy as that individual who refused to rescue a drowning mortal because he had not been introduced to him. [Laughter.] Another³ was not on good terms; and yet, if rumor be true, that Senator has declared that himself and family are more indebted to Mr. Sumner than to any other man; yet, when he saw him borne bleeding by, he turned and went on the other side. Oh, magnanimous Slidell! Oh, prudent Douglas! Oh, audacious Toombs!

Sir, there are questions arising out of this which far transcend those of a mere personal nature. Of those personal considerations I shall speak, when the question comes properly before us, if I am permitted to do so. The higher question involves the very existence of the Government itself. If, sir, freedom of speech is not to remain to us, what is all this Government worth. If we from Massachusetts, or any other State—Senators, or members of the House—are to be called to account by some "gallant nephew" of some "gallant uncle," when we utter something which does not suit their sensitive natures, we desire to know it. If the conflict is to be transferred from this peaceful, intellectual field to one where, it is said, "honors are easy and responsibilities equal," then we desire to know it. Massachusetts, if her sons and representatives are to have the rod held over them, if these things are to continue, the time may come—though she utters no threats—when she may be called upon to withdraw them to her own bosom, where she can furnish to them that protection which is not vouchsafed to them under the flag of their common country. But, while she permits us to remain, we shall do our duty—our whole duty. We shall speak whatever we

¹ Robert Toombs [Ga].
² Stephen A. Douglas [Ill.].

³ John Slidell [La.].

being having the upright form of man; he is a ripe scholar, a chivalric gentleman, and a warm-hearted, true friend. He sat at the feet of Channing, and drank in the sentiments of that noble soul. He bathed in the learning and undying love of the great jurist Story; and the hand of Jackson, with its honors and its offices, sought him early in life, but he shrank from them with instinctive modesty. Sir, he is the pride of Massachusetts. His mother commonwealth found him adorning the highest walks of literature and law, and she bade him go and grace somewhat the rough character of political life. The people of Massachusetts—the old and the young and the middle-aged—now pay their full homage to the beauty of his public and private character. Such is Charles Sumner.

On the 22d day of May, when the Senate and the House had clothed themselves in mourning for a brother fallen in the battle of life in the distant State of Missouri, the Senator from Massachusetts sat in the silence of the Senate Chamber, engaged in the employments appertaining to his office, when a member from this House, who had taken an oath to sustain the Constitution, stole into the Senate, that place which had hitherto been held sacred against violence, and smote him as Cain smote his brother.

MR. KEITT (in his seat).—That is false.

MR. BURLINGAME.—I will not bandy epithets with the gentleman. I am responsible for my own language. Doubtless he is responsible for his.

MR. KEITT.—I am.

MR. BURLINGAME.—I shall stand by mine.

One blow was enough; but it did not satiate the wrath of that spirit which had pursued him through two days. Again and again, quicker and faster fell the leaden blows, until he was torn away from his victim, when the Senator from Massachusetts fell in the arms of his friends, and his blood ran down on the Senate floor. Sir, the act was brief, and my comments on it shall be brief also. I denounce it in the name of the Constitution it violated. I denounce it in the name of the sovereignty of Massachusetts, which was stricken down by the blow. I denounce it in the name of humanity. I denounce it in the name of civilization which it outraged. I denounce it in the name of that fair play which bullies and prize-fighters respect. What! strike a man when he is pinioned—when he cannot respond to a blow! Call you that chivalry? In what code of honor did you get your authority for that? I do not believe that member has a friend so dear who must not, in his heart of hearts, condemn the act. Even the member himself, if he has left a spark of that chivalry

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choose to speak, when we will, where we will, and how we will regardless of all consequences.

Sir, the sons of Massachusetts are educated at the knees of their mothers, in the doctrines of peace and goodwill, and, God knows, they desire to cultivate those feelings—feelings of social kindness, and public kindness. The House will bear witness that we have not violated or trespassed upon any of them; but, sir, if we are pushed too long and too far there are men from the old commonwealth of Massachusetts who will not shrink from a defence of freedom of speech, and the honored State they represent, on any field where they may be assailed.

On July 14 the resolution to expel Mr. Brooks came to a vote. The yeas were 121 and the nays 95, and, since a two-thirds vote is required for expulsion, the resolution was lost. On the following day, by a vote of 106 to 96, the House "declared its disapprobation" of Mr. Keitt for his actions in connection with the assault on Senator Sumner, and, by a vote of 60 yeas to 136 nays, refused to disapprove of Mr. Edmunson's actions in the same matter.

Mr. Brooks, because the vote of a majority of his fellow Representatives in favor of his expulsion was an actual, if not a parliamentary, condemnation resigned his seat the same day, after a speech in which he justified his assault upon Senator Sumner, asserted that his virtual condemnation was a precedent which would return to plague those who had inflicted it, and defied those Representatives who had most unsparingly denounced him. Relying upon the support of his constituency, and, indeed, of the entire South, the press of which had almost unanimously applauded his action, and from which region he had received the presents of countless canes in approbation of his assault, he virtually expressed the defiance of Catiline: "I go, but I return."

"LOOK TO YOUR HEARTHES, MY LORDS!"

[RESIGNATION OF PRESTON M. BROOKS, M. C.]

Some time since a Senator from Massachusetts allowed himself, in an elaborately prepared speech, to offer a gross insult to

my State and to a venerable friend, who is my State's representative, and who was absent at the time.

Not content with that, he published to the world, and circulated extensively, this uncalled-for libel on my State and my blood. Whatever insults my State insults me. Her history and character have commanded my pious veneration; and in her defence I hope I shall always be prepared, humbly and modestly, to perform the duty of a son. I should have forfeited my own self-respect, and perhaps the good opinion of my countrymen, if I had failed to resent such an injury by calling the offender in question to a personal account. It was a personal affair, and in taking redress into my own hands I meant no disrespect to the Senate of the United States or to this House. Nor, sir, did I design insult or disrespect to the State of Massachusetts. I was aware of the personal responsibilities I incurred, and was willing to meet them. I knew, too, that I was amenable to the laws of the country, which afford the same protection to all, whether they be members of Congress or private citizens. I did not, and do not now, believe that I could be properly punished, not only in a court of law, but here also, at the pleasure and discretion of the House. I did not then, and do not now, believe that the spirit of American freemen would tolerate slander in high places, and permit a member of Congress to publish and circulate a libel on another, and then call upon either House to protect him against the personal responsibilities which he had thus incurred.

But, if I had committed a breach of privilege, it was the privilege of the Senate, and not of this House, which was violated. I was answerable *there*, and not *here*. They had no right, as it seems to me, to prosecute me in these halls, nor have you the right in law or under the Constitution, as I respectfully submit, to take jurisdiction over offences committed against them. The Constitution does not justify them in making such a request, nor this House in granting it. If, unhappily, the day should ever come when sectional or party feeling should run so high as to control all other considerations of public duty or justice, how easy will it be to use such precedents for the excuse of arbitrary power, in either House, to expel members of the minority who may have rendered themselves obnoxious to the prevailing spirit in the House to which they belong.

This House, however, it would seem, from the unmistakable tendency of its proceedings, takes a different view from that which I deliberately entertain in common with many others.

So far as public interests or constitutional rights are in-

For myself I have only to say that, if I cannot preserve my self-respect and constitutional rights, together with a seat in this body, I must renounce the last rather than the former.

I have no desire, sir, to continue an argument which my friends have exhausted. The determination of the majority is fixed, and it is in vain to resist it. I will make no appeal to a *packed jury*, but I protest against its inconsistencies and its usurpations. During this session the charge was openly made by a member from the State of Pennsylvania on this floor that another [John J. Pearce], who is his colleague, had been guilty of an attempt to bribe, and no proceedings were instituted in the case. Do the majority of this House propose to instruct the American people, from their high position, that bribery is excusable, and simple assault and battery a crime? That is the lesson, and you are the teachers.

And in whose behalf is this extraordinary stretch of constitutional power invoked? Sir, I do not intend to violate any rule of this House, or of parliamentary courtesy, but it cannot be denied that he is, *par excellence*, the representative of a sovereignty which is at this instant in open, statutory rebellion—not to a simple rule of a single House, but to the Constitution and laws of the United States of America. Massachusetts sits in judgment upon me without a hearing, and presents me for a breach of privilege! Sir, is it not strange that it did not occur to that sage legislature that its *demand* upon the Congress of the United States, relative to a member, was a greater breach of privilege in them than that complained of the member himself? What right, sir, has the legislature of Massachusetts to make any demand upon this House? She has not the right of even instructing the most insignificant member from the State, and has, by her resolutions, but given additional proof that she neither comprehends the theory of our Government nor is loyal to its authority.

I have said, sir, that, if I have committed a breach of privilege, it was the privilege of the Senate. If I have, in any particular, violated the privileges or proprieties of this House, I am unconscious of it, and I challenge every member to specify a single disorderly or improper act.

And yet, sir, the vote which has just been taken transmits me to posterity as a man unworthy, in the judgment of a majority of my peers, of a seat in this Hall. And for what? The member from New Jersey [Mr. Pennington]—the prosecuting member—the thumb-paper member [laughter]—the Falstaffian member, who, like his prototype, was born about four

involved, I have now exhausted my means of defence. I may, then, be allowed to take a more personal view of the question at issue. The further prosecution of this subject, in the shape it has now assumed, may not only involve my friends, but the House itself in agitations which might be unhappy in their consequences to the country. If these consequences could be confined to myself individually, I think I am prepared and ready to meet them, here or elsewhere; and, when I use this language, I mean what I say. But others must not suffer for me. I have felt more on account of my two friends who have been implicated than for myself. I will not constrain gentlemen to assume a responsibility on my account which, possibly, they would not on their own.

Sir, I cannot, on *my own account*, assume the responsibility, in the face of the American people, of commencing a line of conduct which, in my heart of hearts, I believe would result in subverting the foundations of this Government and in drenching this hall in blood. No act of mine, and on my personal account, shall inaugurate revolution; but when you, Mr. Speaker, return to your own home and hear the people of the great North—and they are a great people—speak of me as a bad man, you will do me the justice to say that a blow struck by me at this time would be followed by revolution—and this I know. [Applause and hisses in the gallery.]

The Speaker announced that, if any such demonstrations were repeated the galleries should be cleared.

Mr. Brooks (turning to the gentlemen's gallery).—If I have any friends in the gallery I appeal to them to be quiet.

At the same time, Mr. Speaker, I am not willing to see the Constitution wounded through me; nor will I submit voluntarily to a wrong if I can avoid it. I will not voluntarily give my name to countenance parliamentary misuse or constitutional aggression. If I am to be tried again for the matter now before us I will choose my own tribunal. I will appeal from this House to my own constituents. From that verdict I will not appeal. The temper of the times is not favorable for a calm and dispassionate judgment of the case; and if, by any act of mine, I can save the majority of this House from the consequences of a rash decision, the time may come when the good men who are pursuing me—and I believe there are such in the opposition—will admit that I deserve their thanks for the deed. The axe that is uplifted to strike me may fall upon others, and fall upon them after they have parted with the shield of the Constitution to protect them.

o'clock in the morning and, if he has not the bald head, is graced with the corporeal rotundity [great laughter] of his predecessor upon his advent into this subunary world—he says it was for making a "murderous" assault with a "bludgeon"; and he, forsooth, would have this House and the country believe, with an intent to kill.

If I desired to kill the Senator, why did not I do it? You all admit that I had him in my power. Let me tell the member from New Jersey that it was expressly to avoid taking life that I used an ordinary cane, presented to me by a friend in Baltimore nearly three months before its application to the "bare head" of the Massachusetts Senator. I went to work very deliberately, as I am charged—and this is admitted—and speculated somewhat as to whether I should employ a horsewhip or a cowhide; but, knowing that the Senator was my superior in strength, it occurred to me that he might wrest it from my hand, and then—for I never attempt anything I do not perform—I might have been compelled to do that which I would have regretted the balance of my natural life.

The question has been asked in certain newspapers why did I not invite the Senator to personal combat in the mode usually adopted. Well, sir, as I desire the whole truth to be known about the matter, I will, for once, notice a newspaper article on the floor of the House and answer here.

My answer is that I knew that the Senator would not accept a message; and, having formed the unalterable determination to punish him, I believed that the offence of "sending a hostile message," superadded to the indictment for assault and battery, would subject me to legal penalties more severe than would be imposed for a simple assault and battery.

For this act, which the Senate, with a solitary exception of a distinguished gentleman from Georgia [Mr. Toombs] have pronounced me guilty of a breach of its privileges—for this act I am complained of by that body to this House. Your committee have declared, and this House has now concurred in the opinion, that my offence is to the Senate, and that no rule or order of this body have I violated.

Now, sir, let me ask why the Senate did not protect its own rights? The argument has been made here that *ex necessitate* this House must have the power to protect itself. If that principle be true in its application *here*, why has not the Senate the same powers of protection? But what right has this House to punish me for offences committed out of its presence? They tell me that my responsibility to this House is because of the

general responsibility which attaches to every member. Where do you stop in this question of authority of the House over its members? If your authority goes into the Senate Chamber, and even when the Senate is not in session, why should it not go into the ante-rooms and down the steps of the Capitol? Why not pursue me into the avenue—into the steamboat—to my plantation? Why, sir, if I go to my home and find that one of my slaves has behaved badly in my absence and I direct him to be flogged, I may be charged with—to use the language which is familiar here—"crime the blackest and most heinous"; and when I come back—and come back I will—may be punished myself for inflicting a chastisement which, by the common law and the constitutional laws of my country, I have the right to inflict upon my slave, who is my property.

Now, sir, let me inform the honorable members who have been pursuing me so fiercely that my present attitude was long since foreseen, and that I am altogether prepared for any of its emergencies. I knew with whom I had to deal, and my resignation has been for more than ten days in the hands of the Governor of South Carolina, to take effect the very instant that I announce my resignation upon this floor. But, before I make the announcement, I desire to say a word or two in reference to what has been said of me in debate and elsewhere.

Your amiable colleague [Chauncey L. Knapp], who was presented by his constituents with a revolver, intended for my particular benefit, yesterday declared that Massachusetts would "take her own time and place" to resent what he and she both pronounced to be an insult and an injury. I do not intend, Mr. Speaker, to utter an offensive, unkind, or even a rough word to that gentleman—for he is a gentleman, socially, I know—but I wish to say this to him, that I will never plead the statute of limitations in bar of the wrath of Massachusetts.

I now desire the attention of my *quondam* friend from Massachusetts [Linus B. Comins]. From his place in this House—in his representative character, and at the time armed to the teeth, he quoted the language and indorsed the sentiment of Chevalier Webb, of poor Jonathan Cilley notoriety, as follows:

"Looking at it solely as an insult to the country, a trampling upon the Constitution, and an outrage upon the sanctity of the Senate Chamber, it was an outrage which merited death on the spot from any patriot present who was in a position to inflict the punishment."

Now, sir, I say to that gentleman that no man has the right to wear arms who does not dare to use them. In my country

the cock that crows and won't fight is despised by the hens and even by the pullets, who know a thing or two instinctively. [Great laughter.] His chivalric spurs dwindle before the charges of the valorous gout, and his place is—out of sight. I feel, sir, that "the blood more stirs to hunt the lion than to chase the hare"; but, if my *quondam* friend has any ambition, under the directions of the Chevalier Webb, to play the "*patriot*," let him or *le preux chevalier*, separately or together, or backed by the whole Black Republican crew, come take the life which they say is forfeited.

Now, Mr. Speaker, I have nearly finished what I intended to say. If my opponents, who have pursued me with unparalleled bitterness, are satisfied with the present conditions of this affair, I am. I return my thanks to my friends, and especially to those who are from non-slaveholding States, who have magnanimously sustained me, and felt that it was a higher honor to themselves to be just in their judgment of a gentleman than to be a member of Congress for life. In taking my leave, I feel that it is proper that I should say that I believe some of the votes which have been cast against me have been extorted by an outside pressure at home, and that their votes do not express the feelings or opinions of the members who gave them.

To such of these as have given their votes and made their speeches on the constitutional principles involved, and, without indulging in personal vilification, I owe my respect. But, sir, they have written me down upon the history of the country as worthy of expulsion and in no unkindness I must tell them that for all future time my self-respect requires that I shall pass them as strangers.

And now, Mr. Speaker, I announce to you and to this House that I am no longer a member of the Thirty-Fourth Congress.

Mr. Brooks then walked out of the House of Representatives.

Shortly after his resignation Brooks selected from his detractors Anson Burlingame, the Representative from Massachusetts who had particularly charged him with cowardice, and challenged him to a duel, which Burlingame accepted. The affair was arranged to take place on the Canadian side of Niagara Falls in order to be out of the jurisdiction of this country, most of the States of which had passed laws against dueling. Brooks finally declined to fight at the place designated, for the reason that to reach it he would have to pass

through a State (New York) which was inimical to him. Brooks was sent back to Congress by his constituents and took an active part in its deliberations before his career was cut short by death, which occurred in the following year (1857).

Senator Sumner never entirely recovered from the assault—indeed, it hastened his death. It was not until December, 1859, that he resumed his seat; he took little part in the debates until the middle of the session, when he delivered a notable speech on the "Barbarism of Slavery," which aroused, if possible, even greater animosity against him on the part of the South than he had brought upon himself by his speech on "The Crime Against Kansas."

CHAPTER X

THE DRED SCOTT DECISION

Presidential Campaign of 1856 Fought on the Popular Sovereignty Issue—President Pierce Writes a Message on "The Defeat of Sectionalism"—Reply by John P. Hale [N. H.]—President Buchanan, in His Inaugural Address, Prepares the Public to Accept the Forthcoming Dred Scott Decision by the Supreme Court—Horace Greeley's Account of the Case: Opinions of Chief Justice Roger B. Taney, and of Other Justices, Who Concurred in the Decision; Opinions of Justices John McLean and Benjamin R. Curtis, Who Dissented from the Decision—Senator Stephen A. Douglas Accepts the Decision in a Speech at Springfield, Ill.—Abraham Lincoln Replies to Him: "The Sacredness of Judicial Decisions."

IN the Presidential campaign of 1856 the question of popular sovereignty was the chief issue. The American (Know Nothing) convention, which met in Philadelphia on February 22, declared for this principle, causing about fifty "anti-Nebraska" delegates to secede. Ex-President Millard Fillmore [N. Y.], noted for his deprecation of "sectionalism," was nominated for President, and Andrew Jackson Donelson [Tenn.] for Vice-President.

The Democratic national convention met at Cincinnati, O., on June 2. James Buchanan [Pa.] was nominated for President and John C. Breckinridge [Ky.] for Vice-President. The platform declared in favor of popular sovereignty in the Territories, "as embodying the only sound and safe solution of the slavery question, upon which the great national idea of the people of this whole country can repose in its determined conservation of the Union," and in favor of "non-interference of Congress with slavery in the Territories or in the District of Columbia."

The Republican national convention was held at Philadelphia on June 17. John C. Frémont [Cal.] was nominated for President on the first ballot. William

L. Dayton [N. J.] was nominated for Vice-President on the first ballot by 259 votes to 110 cast for Abraham Lincoln [Ill.] and 180 scattering. The platform contained, among other resolutions, the following:

"Resolved, That, with our republican fathers, we hold it to be a self-evident truth that all men are endowed with the in-



THE RIGHT MAN FOR THE RIGHT PLACE
Fremont on left, Fillmore in center, Buchanan on right
From the collection of the New York Historical Society

alienable rights to life, liberty, and the pursuit of happiness; and that the primary object and ulterior design of our Federal Government were to secure these rights to all persons within its exclusive jurisdiction; that, as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person should be deprived of life, liberty, or property, without due process of law, it becomes our duty to maintain this provision of the Constitution against all attempts to violate it for the purpose of establishing slavery in any territory of the United States by positive legislation, prohibiting its existence and extension therein. That we deny the authority of Congress, of a territorial legislature, of any individual or association of

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geographical parties; of marshaling in hostile array toward each other the different parts of the country—North or South, East or West.

Schemes of this nature, fraught with incalculable mischief, and which the considerate sense of the people has rejected, could have had countenance in no part of the country, had they not been disguised by suggestions plausible in appearance, acting upon an excited state of the public mind, induced by causes temporary in their character and, it is to be hoped, transient in their influence.

Perfect liberty of association for political objects and the widest scope of discussion are the received and ordinary conditions of government in our country. Our institutions, framed in the spirit of confidence in the intelligence and integrity of the people, do not forbid citizens, either individually or associated together, to attack by writing, speech, or any other methods short of physical force the Constitution and the very existence of the Union. Under the shelter of this great liberty, and protected by the laws and usages of the Government they assail, associations have been formed in some of the States of individuals who, pretending to seek only to prevent the spread of the institution of slavery into the present or future inchoate States of the Union, are really inflamed with desire to change the domestic institutions of existing States. To accomplish their objects, they dedicate themselves to the odious task of depreciating the Government organization which stands in their way, and of calumniating, with indiscriminate invective, not only the citizens of particular States with whose laws they find fault, but all others of their fellow citizens throughout the country who do not participate with them in their assaults upon the Constitution, framed and adopted by our fathers, and claiming for the privileges it has secured, and the blessings it has conferred, the steady support and grateful reverence of their children. They seek an object which they well know to be a revolutionary one. They are perfectly aware that the change in the relative condition of the white and black races in the slaveholding States, which they would promote, is beyond their lawful authority; that to them it is a foreign object; that it cannot be effected by any peaceful instrumentality of theirs; that for them, and the States of which they are citizens, the only part to its accomplishment is through burning cities, and ravaged fields, and slaughtered populations, and all there is most terrible in foreign, complicated with civil and servile, war; and that the first step in the attempt is the forcible disruption of a country embracing

individuals to give legal existence to slavery in any Territory of the United States while the present Constitution shall be maintained.

"Resolved, That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government; and that, in the exercise of this power, it is both the right and the duty of Congress to prohibit in the Territories those twin relics of barbarism—polygamy and slavery."

In the ensuing election 174 Democratic and 114 Republican electors were chosen, and the American party carried Maryland with 8 electoral votes.

In his annual message at the opening of Congress, December 2, 1856, President Pierce began, not with the discussion of foreign affairs, as had been the custom, but with the burning question of the hour, the Kansas situation. This he treated from an extreme partisan point of view, justifying the course of the Administration in the matter, denouncing the policy of the opposition, and exulting over its defeat in the presidential election.

THE DEFEAT OF SECTIONALISM

PRESIDENT PIERCE

It is impossible to misapprehend the great principles which, by their recent political action, the people of the United States have sanctioned and announced.

They have asserted the constitutional equality of each and all of the States of the Union as States; they have affirmed the constitutional equality of each and all of the citizens of the United States as citizens, whatever their religion, wherever their birth, or their residence; they have maintained the inviolability of the constitutional rights of the different sections of the Union; and they have proclaimed their devoted and unalterable attachment to the Union and the Constitution, as objects of interest superior to all subjects of local or sectional controversy, as the safeguard of the rights of all, as the spirit and the essence of the liberty, peace, and greatness of the Republic.

In doing this, they have, at the same time, emphatically condemned the idea of organizing in these United States mere

in its broad bosom a degree of liberty, and an amount of individual and public prosperity, to which there is no parallel in history, and substituting in its place hostile governments, driven at once and inevitably into mutual devastation and fratricidal carnage, transforming the now peaceful and felicitous brotherhood into a vast permanent camp of armed men, like the rival monarchies of Europe and Asia. Well knowing that such, and such only, are the means and the consequences of their plans and purposes, they endeavor to prepare the people of the United States for civil war by doing everything in their power to deprive the Constitution and the laws of moral authority, and to undermine the fabric of the Union by appeals to passion and sectional prejudice, by indoctrinating its people with reciprocal hatred, and by educating them to stand face to face as enemies, rather than shoulder to shoulder as friends.

It is by the agency of such unwarrantable interference, foreign and domestic, that the minds of many, otherwise good citizens, have been so inflamed into the passionate condemnation of the domestic institutions of the Southern States, as at length to pass insensibly to almost equally passionate hostility toward their fellow citizens of those States, and thus, finally, to fall into temporary fellowship with the avowed and active enemies of the Constitution. Ardently attached to liberty in the abstract, they do not stop to consider practically how the objects they would attain can be accomplished, nor to reflect that, even if the evil were as great as they deem it, they have no remedy to apply, and that it can be only aggravated by their violence and unconstitutional action. A question which is one of the most difficult of all the problems of social institution, political economy, and statesmanship they treat with unreasoning intemperance of thought and language. Extremes beget extremes. Violent attack from the North finds its inevitable consequence in the growth of a spirit of angry defiance at the South. Thus, in the progress of events, we had reached that consummation which the voice of the people has now so pointedly rebuked, of the attempt of a portion of the States, by a sectional organization and movement, to usurp the control of the Government of the United States.

On December 2, 1856, Senator John P. Hale [N. H.] replied to the President's message.

Under the grant of the Constitution by which he may, from time to time, give to Congress information of the state of the

Union, and recommend to their consideration such measures as he may judge expedient, the President undertakes to set himself up as an arbiter and to pronounce *ex cathedra* upon what were the issues involved in the last presidential election, and to tell what the people have decided. I will tell him, to begin with, that there was one thing which they decided before they went into the contest, and that was, let who would be chosen, they would not have a second edition of him.

In his inaugural address (March 4, 1857) President Buchanan presented his policy upon the Kansas question.

SUPPRESS THE AGITATION

INAUGURAL ADDRESS OF PRESIDENT BUCHANAN

We have recently passed through a presidential contest in which the passions of our fellow-citizens were excited to the highest degree by questions of deep and vital importance; but, when the people proclaimed their will the tempest at once subsided and all was calm. The voice of the majority, speaking in the manner prescribed by the Constitution, was heard, and instant submission followed. Our own country could alone have exhibited so grand and striking a spectacle of the capacity of man for self-government.

What a happy conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the question of domestic slavery in the Territories! Congress is neither “to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.” As a natural consequence Congress has also prescribed that, when the Territory of Kansas shall be admitted as a State, it “shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission.”

A difference of opinion has arisen in regard to the point of time when the people of a Territory shall decide this question for themselves. This is, happily, a matter of but little practical importance. *Besides, it is a judicial question which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled.* To their decision, in common with

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ever admirable in itself, and however productive of material benefits, can compensate for the loss of peace and domestic security around the family altar. Let every Union-loving man, therefore, exert his best influence to suppress this agitation, which, since the recent legislation of Congress, is without any legitimate object.

The question to which the President referred as pending before the Supreme Court, and as shortly to be decided, was the Dred Scott case. Undoubtedly he had private information as to what the decision would be and was preparing the public for it.

THE DRED SCOTT CASE

Dred Scott, a negro, was, previously to 1834, held as a slave in Missouri by Dr. Emerson, a surgeon in the U. S. Army. In that year the doctor was transferred to the military post at Rock Island, in the State of Illinois, and took his slave with him. Here Major Taliaferro (also of the army) had, in 1835, in his service a negress known as Harriet, whom he likewise held as his slave. The major was transferred that year to Fort Snelling, on the other side of the Mississippi, in what is now known as Minnesota, but was then an unorganized territory of the United States, expressly covered by the slavery prohibition embodied in the Missouri compromise of 1820. Dr. Emerson was likewise transferred to Fort Snelling in 1836, and here bought Harriet of Major Taliaferro and held her and Dred as his slaves; they being married to each other with his consent soon after his arrival at the fort. Two children were born to them north of the Missouri line. The doctor, with Dred, Harriet, and Eliza, returned thence to St. Louis, and he there continued to hold them as his slaves, until he sold them, several years later, to John F. A. Sanford, of the city of New York. Finally Dred brought suit for his freedom, on the above state of facts, in the State Circuit Court of St. Louis County, Missouri, and obtained a verdict and judgment in his favor. But this was reversed by a judgment on a writ of error to the Supreme

all good citizens, I shall cheerfully submit, whatever this may be, though it has ever been my individual opinion that, under the Nebraska-Kansas act, the appropriate period will be when the number of actual residents in the Territory shall justify the formation of a constitution with a view to its admission as a State into the Union. But, be this as it may, it is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved. That being accomplished, nothing can be fairer than to leave the people of a Territory free from all foreign interference to decide their own destiny for themselves, subject only to the Constitution of the United States.

The whole territorial question being thus settled upon the principle of popular sovereignty—a principle as ancient as free government itself—everything of a practical nature has been decided. No other question remains for adjustment; because all agree that under the Constitution slavery in the States is beyond the reach of any human power except that of the respective States themselves wherein it exists. May we not, then, hope that the long agitation on this subject is approaching its end, and that the geographical parties to which it has given birth, so much dreaded by the Father of his Country, will speedily become extinct? Most happy will it be for the country when the public mind shall be diverted from this question to others of more pressing and practical importance. Throughout the whole progress of this agitation, which has scarcely known any intermission for more than twenty years, while it has been productive of no positive good to any human being, it has been the prolific source of great evils to the master, to the slave, and to the whole country. It has alienated and estranged the people of the sister States from each other, and has even seriously endangered the very existence of the Union.

Nor has the danger yet entirely ceased. Under our system there is a remedy for all mere political evils in the sound sense and sober judgment of the people. Time is a great corrective. Political subjects which but a few years ago excited and exasperated the public mind, have passed away, and are now nearly forgotten. But this question of domestic slavery is of far graver importance than any mere political question, because, should the agitation continue, it may eventually endanger the personal safety of a large portion of our countrymen where the institution exists. In that event, no form of government, how-

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Court of that State, from which an appeal was taken to the courts of the United States, and the case came to trial in May, 1854. Having been fully heard by the Supreme Court at Washington, that court was about to decide at its term of 1855-6, but the controlling majority of its judges concluded, in view of the pending presidential election and the strong excitement which the Nebraska bill and the Kansas outrages had aroused throughout the free States, to defer rendering judgment until its next session.

“It is quite probable that its action in the premises, if made public at the time originally intended, would have reversed the issue of that presidential election,” observes Horace Greeley in his “American Conflict,” from which these facts have been taken.

On March 11, 1857, the decision and opinions of this court in the Dred Scott case were made public. Chief-Justice Roger B. Taney, in pronouncing the decision of the court, which nullified the Missouri restriction, or any restriction by Congress on the boundless diffusion of slavery throughout the Territories of the Union, commenced by denying to Dred Scott, or to any person “whose ancestors were imported to this country and sold as slaves,” any right to sue in a court of the United States. He said:

“The question before us is: whether the class of persons described in the plea in abatement compose a portion of this people and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word ‘citizen’ in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.”

The Chief-Justice proceeded to affirm not only that no persons who had been or whose ancestors had been

slaves were regarded as citizens previously to, or at the time of, adopting the Federal Constitution, but that—no State has, or can have, any right to confer citizenship on such persons.

"In the opinion of the court the legislation and history of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.

"It is difficult at this day to realize the state of public opinion in relation to that unfortunate race which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken.

"They had, for more than a century before, been regarded as beings of an inferior order and altogether unfit to associate with the white race, either in social or political relations; and so far inferior that *they had no rights which the white man was bound to respect*; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic whenever a profit could be made by it. This opinion was, at that time, fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals, as well as in politics, which no one thought of disputing or supposed to be open to dispute; and men of every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

"And in no nation was this opinion more firmly fixed or more uniformly acted upon than by the English Government and English people. They not only seized them on the coast of Africa and sold them or held them in slavery for their own use, but they took them as ordinary articles of merchandise to every country where they could make a profit on them, and were far more engaged in this commerce than any other nation in the world.

"The opinion thus entertained and acted upon in England was naturally impressed upon the colonies they founded on

Chief-Justice Taney then proceeded to argue that slavery was abolished by our fathers, not at all because it was felt to be wrong, but because it was found to be unprofitable in this particular locality. On this point he said:

"It is very true that, in that portion of the Union where the labor of the negro race was found to be unsuited to the climate and unprofitable to the master, but few slaves were held at the time of the Declaration of Independence; and, when the Constitution was adopted, it had entirely worn out in one of them and measures had been taken for its gradual abolition in several others. But this change had not been produced by any change of opinion in relation to this race, but because it was discovered from experience that slave labor was unsuited to the climate and productions of these States; for some of these States where it had ceased, or nearly ceased, to exist were actively engaged in the slave trade, procuring cargoes on the coast of Africa and transporting them for sale to those parts of the Union where their labor was found to be profitable and suited to the climate and productions. And this traffic was openly carried on and fortunes accumulated by it without reproach from the people of the States where they resided. And it can hardly be supposed that, in the States where it was then countenanced in its worst form—that is, in the seizure and transportation—the people could have regarded those who were emancipated as entitled to equal rights with themselves."

The Chief-Justice then declared that no State can make its black people citizens, because that would be very inconvenient and unsafe for the slaveholders of other States. "For," he says:

"If they were so received, and entitled to the privileges and immunities of citizens, it would exempt them from the operation of the special laws and from the police regulations which they considered to be necessary for their own safety. It would give to persons of the negro race who were recognized as citizens in any one State of the Union the right to enter every other State whenever they pleased, singly or in companies, without pass or passport; and, without obstruction, to sojourn there as long as they pleased; to go where they pleased at every hour of the day or night without molestation, unless they committed some violation of law for which a white man would be punished; and

this side of the Atlantic. And, accordingly, a negro of the African race was regarded by them as an article of property and held and bought and sold as such in every one of the thirteen colonies which united in the Declaration of Independence and afterward formed the Constitution of the United States. The slaves were more or less numerous in the different colonies, as slave labor was found more or less profitable. But no one seems to have doubted the correctness of the prevailing opinion of the time."

Chief-Justice Taney then quoted the preamble of the Declaration of Independence.

"The general words above quoted would seem to embrace the whole human family; and, if they were used in a similar instrument at this day, would be so understood. But it is too clear to dispute that the enslaved African race were not intended to be included and formed no part of the people who framed and adopted this Declaration; for, if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted; and, instead of the sympathy of mankind, to which they so confidently appealed, they would have deserved and received universal rebuke and reprobation.

"Yet the men who framed this declaration were great men—high in literary acquirements—high in their sense of honor—and incapable of asserting principles inconsistent with those on which they were acting. They perfectly understood the meaning of the language they used and how it would be understood by others; and they knew that it would not, in any part of the civilized world, be supposed to embrace the negro race; which, by common consent, had been excluded from civilized governments and the family of nations and doomed to slavery. They spoke and acted according to the then established doctrines and principles, and in the ordinary language of the day and no one misunderstood them. The unhappy black race were separated from the white by indelible marks and laws long before established, and were *never thought of or spoken of except as property*, and when the claims of the owner or the profit of the trader were supposed to need protection.

"This state of public opinion had undergone no change when the Constitution was adopted, as is equally evident from its provisions and language."

it would give them the full liberty of speech in public and private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, and to keep and carry arms wherever they went. And all of this would be done in the face of the subject race of the same color, both free and slaves, and inevitably producing discontent and insubordination among them, and endangering the peace and safety of the State."

Having thus determined that Dred Scott, being a negro and descended from slaves, had no right to bring this suit and no standing in the Federal courts, and that the court has no authority in the premises, the Chief-Justice proceeded to uphold the right of Congress to exclude slavery from any Territory. To this end he affirmed that that clause of the Constitution (Art. IV, Sec. 3) which says "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States," applies only to such territory as belonged to the United States at the time the Constitution was framed. The territory covered by the Missouri restriction, having all been acquired *since* that time, is not, in his view, subject to this provision.

He proceeded to affirm that, by the mere fact of our acquiring territory, "the Government and the citizen both enter it under the authority of the Constitution"; in other words, that the Constitution takes effect upon any territory that our Government may acquire, at the instant of such acquisition, in such manner as to create and uphold the right of every slaveholder to take his slaves thither and hold them there as property. But this particular and only clause of the Constitution relating to territory has no application or substituting validity; because, if it had, it might enable Congress to prohibit slavery therein. The Chief-Justice therefore nullified the Missouri restriction and all kindred restrictions in the following terms.

"Upon these considerations it is the opinion of the court that the act of Congress which prohibited a citizen from holding property of this kind in the territory of the United States

north of the line therein mentioned is not warranted by the Constitution, and it is therefore void; and that neither Dred Scott himself, nor any of his family, were made free by being carried into this territory, even if they had been carried there by the owner with the intention of becoming a permanent resident."

But Dred's freedom was claimed on still another ground, *viz.* that he had been taken by his master to the Free State of Illinois and there retained some two or three years. But this the Chief-Justice disposed of by declaring that his claim was not properly before the court; that the question raised by it was to be adjudged by the tribunals of Missouri alone; and he concluded as follows:

"Upon the whole, therefore, it is the judgment of this court that it appears by the record before us that the plaintiff in error is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the Circuit Court of the United States, for that reason, had no jurisdiction in the case and could give no judgment in it. Its judgment for the defendant must, consequently, be reversed and a mandate issued directing the suit to be dismissed for want of jurisdiction."

Associate-Justice James Moore Wayne, of Georgia, concurred "entirely in the opinion of the court as written and read by the Chief-Justice, without any qualification of its reasoning or its conclusions."

Associate-Justice Samuel Nelson, of New York, concurred also in the conclusion of the court. He said:

"If Congress possesses power, under the Constitution, to abolish slavery in a Territory it must necessarily possess the like power to *establish* it. It cannot be a one-sided power, as may suit the convenience or particular views of the advocates. It is a power, if it exist at all, over the whole subject."

Associate-Justice Robert Cooper Grier, of Pennsylvania concurred in the opinion delivered by Justice Nelson.

"I also concur with the opinion of the court, as delivered by the Chief-Justice, that the act of Congress of 6th of March, 1820, is unconstitutional and void; and that, assuming the facts as stated in the opinion, the plaintiff cannot sue as a citizen of

over the Territories, expressly given to Congress by the Constitution, has no force or application *beyond* the territory possessed by us when that Constitution was framed. In fact, as he had been hanging men for the last twenty years under this very power, he could not well do otherwise. He says:

"It is due to myself to say that it is asking much of a judge, who has for nearly twenty years been exercising jurisdiction from the western Missouri line to the Rocky Mountains, and, on this understanding of the Constitution, inflicting the extreme penalty of death for crimes committed where the direct legislation of Congress was the only rule, to agree that he had all the while been acting in mistake, and as an usurper.

"More than sixty years have passed away since Congress has exercised power to govern the Territories by its legislation directly, or by territorial charters subject to repeal at all times; and it is now too late to call that power in question if this court could disregard its own decisions, which it cannot do, as I think."

He concluded that that clause of the Constitution which provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States" gives slaveholders an indefeasible right to carry their slaves into, and hold them in, the Territories.

Associate-Justice John McLean, of Ohio, in his opinion dissenting from that of the court, said:

"Will it be said that the slave is taken as property, the same as other property which the master may own? To this I answer, that colored persons are made property by the law of the State, and no such power has been given to Congress. Does the master carry with him the law of the State from which he removes into the Territory? and does that enable him to coerce his slave in the Territory? Let us test this theory: If this may be done by a master from one slave State, it may be done by a master from every other slave State. This right is supposed to be connected with the person of the master by virtue of the local law. Is it transferable? May it be negotiated as a promissory note or bill of exchange? If it be assigned to a man from a free State may he coerce the slave by virtue of it? What shall this thing be denominated? Is it personal or

Missouri in the courts of the United States. But, that the record shows a *prima facie* case of jurisdiction, requiring the court to decide all the questions properly arising in it; and, as the decision of the pleas in bar shows that the plaintiff is a slave, and therefore not entitled to sue in a court of the United States, the form of the judgment is of little importance; for, whether the judgment be affirmed or dismissed for want of jurisdiction, it is justified by the decision of the court and is the same in effect between the parties to the suit."

Associate-Justice Peter Vivian Daniel, of Virginia, asserted that slaves were property.

"Now, the following are truths which a knowledge of the history of the world and particularly of that of our own country, compels us to know—that the African negro race have never been acknowledged as belonging to the family of nations; that, as among them there never has been known or recognized by the inhabitants of other countries anything partaking of the character of nationality, or civil or political polity; that this race has been by all the nations of Europe regarded as subjects of capture or purchase, as subjects of commerce or traffic; and that the introduction of that race into every section of this country was not as members of civil or political society, but as slaves—as *property*, in the strictest sense of the term."

He proceeded to deny the right or power of any State to elevate persons (or, as he would say, *property*) of African descent to citizenship of the United States, "by any direct or indirect proceeding," so as to entitle them to sue, or be sued, in the Federal tribunals. Justice Daniel, pushing his doctrines to their legitimate result, pronounced the Ordinance of 1787 only equal in constitutionality and validity with the Missouri restriction—that is to say, essentially null and void.

Associate-Justice John A. Campbell, of Alabama, followed with a general assent to the views of Chief-Justice Taney.

Associate-Justice John Catron, of Tennessee, concurred with Justice Nelson that Dred Scott had no right to freedom at the hands of the Supreme Court on the ground of his two years' residence in Illinois; but he dissented from the Chief Justice's notion that the power

real property? Or is it an undefinable fragment of sovereignty which every person carries with him from his late domicile? One thing is certain, that its origin has been very recent and it is unknown to the laws of any civilized country. It is said that the Territories are the common property of the States, and that every man has a right to go there with his property. This is not controverted. But the court say a slave is not property beyond the operation of the local law which makes him such. Never was a truth more authoritatively and justly uttered by man. Suppose a master of a slave in a British island owned a million of property in England; would that authorize him to take his slaves with him to England? The Constitution, in express terms, recognizes the *status* of slavery as founded on the municipal law: 'No person held to service or labor in one State, *under the laws thereof*, escaping to another shall,' etc. Now, unless the fugitive escape from a place where, by the municipal law, he is held to labor, this provision affords no remedy to the master. What can be more conclusive than this? Suppose a slave escape from a Territory where slavery is not authorized by law, can he be reclaimed? In this case a majority of the court have said that a slave may be taken by his master into a Territory of the United States, the same as a horse, or any other kind of property. It is true this was said by the court, as also many other things which are of no authority. Nothing that has been said by them which has not a direct bearing on the jurisdiction of the court against which they decided can be considered as authority. I shall certainly not regard it as such. The question of jurisdiction, being before the court, was decided by them authoritatively, but nothing beyond that question. A slave is not a mere chattel. He bears the impress of his Maker and is amenable to the laws of God and man, and he is destined to an endless existence."

To the same effect Associate-Justice Benjamin R. Curtis, of Massachusetts, in his dissenting opinion, thus traversed the judgment of the court:

"Is it conceivable that the Constitution has conferred the right on every citizen to become a resident on the territory of the United States with his slaves and there to hold them as such, but has neither made nor provided for any municipal regulations which were essential to the existence of slavery? Is it not more rational to conclude that they who framed and adopted the Constitution were aware that persons held to service

under the laws of a State are property only to the extent and under the conditions fixed by those laws, and that they must cease to be available as property when their owners voluntarily place them permanently within another jurisdiction where no municipal laws on the subject of slavery exist?

"Moreover, if the right exists, what are its limits, and what are its conditions? If citizens of the United States have a right to take their slaves to a Territory and hold them there as slaves, without regard to the laws of the Territory, I suppose this right is not to be restricted to the citizens of slaveholding States. A citizen of a State which does not tolerate slavery can hardly be denied the power of doing the same thing. And what law of slavery does either take with him to the Territory? If it be said to be those laws respecting slavery which existed in the particular State from which each slave last came, what an anomaly is this! Where else can we find under the laws of any civilized country the power to introduce and permanently continue diverse systems of foreign municipal law for holding persons in slavery?"

In reply to Chief-Justice Taney's disquisition as to the opinions and views of our Revolutionary statesmen, Justice Curtis said:

"To determine whether any free persons descended from Africans held in slavery were citizens of the United States under the Confederation and, consequently, at the time of the adoption of the Constitution of the United States, it is only necessary to know whether such persons were citizens of either of the States under the Confederation, at the time of the adoption of the Constitution.

"Of this there can be no doubt. At the time of the ratification of the Articles of Confederation all free, native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those States, but such of them as had the other necessary qualifications possessed the franchise of electors, on equal terms with other citizens."

He proceeded to cite, in support of this averment, the judgment of the Supreme Court of North Carolina in the case of the *State against Manual*, wherein William Gaston—by far the most eminent jurist of whom that State could ever boast—pronounced the opinion of the court in the following terms:

least five States, and so, in every sense, part of the people of the United States, they were among those for whom and whose posterity the Constitution was ordained and established."

Justice Curtis was not content with refuting the logic of the Chief-Justice. He seized the weapons of his antagonist and turned them against him with decided effect. Witness the following:

"I do not deem it necessary to review at length the legislation of Congress having more or less bearing upon the citizenship of colored persons. It does not seem to me to have any considerable tendency to prove that it has been considered by the legislative department of the Government that no such persons are citizens of the United States. Undoubtedly they have been debarred from the exercise of particular rights or privileges extended to white persons, but, I believe, always in terms which, by implication, admit that they may be citizens. Thus the act of May 17, 1792, for the organization of the militia directs the enrollment of every 'free, able-bodied, white male citizen.' An assumption that none but white persons are citizens would be as inconsistent with the just import of this language as that all citizens are able-bodied or males.

"So the act of February 28, 1803 (2 *Stat. at Large*, 205), to prevent the importation of certain persons into States when, by the laws thereof, their admission is prohibited, in its first section forbids all masters of vessels to import or bring 'any negro, mulatto, or other person of color, not being a native, a citizen, or registered seaman of the United States,' etc., etc.

"The acts of March 3, 1813, Sec. 1 (2 *Stat. at Large*, 809), and March 1, 1817, Sec. 3 (3 *Stat. at Large*, 351), concerning seamen, certainly imply that there may be persons of color, natives of the United States, who are not citizens of the United States. This implication is undoubtedly in accordance with the fact. For not only slaves, but free persons of color, born in some of the States, are not citizens. But there is nothing in these laws inconsistent with the citizenship of persons of color in others of the States, nor with their being citizens of the United States.

"Whether much or little weight should be attached to the particular phraseology of these and other laws, which were not passed with any direct reference to the subject, I consider their tendency to be, as already indicated, to show that, in the apprehension of their framers, color was not a necessary qualification

"According to the laws of this State all human beings within it who are not slaves fall within one of two classes. Whatever distinctions may have existed in the Roman laws between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution all free persons born within the dominions of the King of Great Britain, whatever their color or complexion, were native-born British subjects—those born out of his allegiance were aliens. Slavery did not exist in England, but it did in the British colonies. Slaves were not, in legal parlance, persons, but property. The moment the incapacity, the disqualification of slavery was removed, they became persons, and were then either British subjects or not British subjects, according as they were or were not born within the allegiance of the British king. Upon the Revolution no other change took place in the laws of North Carolina than was consequent on the transition from a colony dependent on a European king to a free and sovereign State. Slaves remained slaves. British subjects in North Carolina became North Carolina freemen. Foreigners, until made members of the State, remained aliens. Slaves, manumitted here, became freemen; and, therefore, if born within North Carolina, are citizens of North Carolina; and all free persons born within the State are born citizens of the State. The Constitution extended the elective franchise to every freeman who had arrived at the age of twenty-one and paid a public tax; and it is a matter of universal notoriety that, under it, free persons, without regard to color, claimed and exercised the franchise until it was taken from free men of color a few years since by our amended Constitution."

Continuing his review of the Chief-Justice's assumptions, Justice Curtis said:

"It has been often asserted that the Constitution was made exclusively by and for the white race. It has already been shown that in five of the thirteen original States colored persons then possessed the elective franchise and were among those by whom the Constitution was ordained and established. If so, it is not true, in point of fact, that the Constitution was made exclusively by the white race. And that it was made exclusively for the white race is, in my opinion, not only an assumption not warranted by anything in the Constitution, but contradicted by its open declaration that it was ordained and established by the people of the United States for themselves and their posterity. And, as free colored persons were then citizens of at

for citizenship. It would be strange if laws were found on our statute-book to that effect, when, by solemn treaties, large bodies of Mexican and North American Indians, as well as free colored persons of Louisiana, have been admitted to citizenship of the United States."

Justice Curtis cited with effect the action of Congress in 1821 on the admission of Missouri, whereby that State was constrained to abandon and repudiate her attempt to prohibit the settlement of free negroes and mulattoes within her borders, whereof he said:

"It is true that neither this legislative declaration nor anything in the Constitution or laws of Missouri, could confer or take away any privilege or immunity granted by the Constitution. But it is also true that it expresses the then conviction of the legislative power of the United States that free negroes, as citizens of some of the States, might be entitled to the privileges and immunities of citizens in all the States."

He summed up his conclusions as to the right of Dred Scott to bring this action, as follows:

"First. That the free, native-born citizens of each State are citizens of the United States.

"Second. That, as free colored persons born within some of the States are citizens of those States, such persons are also citizens of the United States.

"Third. That every such citizen residing in any State has a right to sue, and is liable to be sued, in the federal courts as a citizen of that State in which he resides.

"Fourth. That, as the plea to the jurisdiction in this case shows no facts except that the plaintiff was of African descent, and that his ancestors were sold as slaves, and, as these facts are not inconsistent with his citizenship of the United States and his residence in the State of Missouri, the plea to the jurisdiction was bad, and the judgment of the Circuit Court overruling it was correct.

"I dissent, therefore, from that part of the opinion of the majority of the court in which it is held that a person of African descent cannot be a citizen of the United States; and I regret I must go further and dissent both from what I deem their assumption of authority to examine the constitutionality of the act of Congress commonly called the Missouri compromise

act, and the grounds and conclusions announced in their opinion.

"Having first decided that they were bound to consider the sufficiency of the plea to the jurisdiction of the Circuit Court, and, having decided that this plea showed that the Circuit Court had *not* jurisdiction, and, consequently, that this is a case to which the judicial power of the United States does not extend, they have gone on to examine the merits of the case as they appeared on the trial before the court and jury, on the issues joined on the pleas in bar, and so have reached the question of the power of Congress to pass the act of 1820. On so grave a subject as this, I feel obliged to say that, in my opinion, such an exertion of judicial power transcends the limits of the authority of the court, as described by its repeated decisions, and, as I understand, acknowledged in this opinion of the majority of the court."

Justice Curtis proceeded to confute at length and with decided ability the doctrines of the majority, affirming the invalidity of the Missouri restriction, and asserting the paramount right of each slaveholder to remove with his slaves into any territory of the United States and there retain and control them under the ægis of the Federal Constitution. He showed, further, that the majority erred in upholding a majority of the Supreme Court of Missouri in overruling their own Chief Justice and their own former decisions, whereby it had been established in accordance with kindred decisions in Louisiana as in other slave States that a slave taken by his master or removed with his assent to a Free State or to any country wherein slavery is prohibited becomes thereby a freeman and cannot be returned or reduced again to slavery. It is not, however, necessary to quote further on this head. He concluded:

"For these reasons I am of opinion that so much of the several acts of Congress as prohibited slavery and involuntary servitude within that part of the Territory of Missouri lying north of thirty-six degrees thirty minutes north latitude and west of the River Mississippi were constitutional and valid laws.

"In my opinion, the judgment of the Circuit Court should be reversed and the cause remanded for a new trial."

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fully settled, should control not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments to the Constitution as provided in that instrument itself. More than this would be revolution. But we think the Dred Scott decision is erroneous. We know the court that made it has often overruled its own decisions, and we shall do what we can to have it to overrule this. We offer no resistance to it.

Judicial decisions are of greater or less authority as precedents according to circumstances. That this should be so accords both with common sense and the customary understanding of the legal profession.

If this important decision had been made by the unanimous concurrence of the judges, and without any apparent partisan bias, and in accordance with legal public expectation and with the steady practice of the departments throughout our history, and had been in no part based on assumed historical facts which are not really true; or, if wanting in some of these, it had been before the court more than once, and had there been affirmed and reaffirmed through a course of years, it then might be, perhaps would be, factious, nay, even revolutionary, not to acquiesce in it as a precedent.

But when, as is true, we find it wanting in all these claims to the public confidence, it is not resistance, it is not factious, it is not even disrespectful to treat it as not having yet quite established a settled doctrine for the country. But Judge Douglas considers this view awful. Hear him:

The courts are the tribunals prescribed by the Constitution and created by the authority of the people to determine, expound, and enforce the law. Hence, whoever resists the final decision of the highest judicial tribunal aims a deadly blow at our whole republican system of government—a blow which, if successful, would place all our rights and liberties at the mercy of passion, anarchy, and violence. I repeat, therefore, that if resistance to the decisions of the Supreme Court of the United States, in a matter like the points decided in the Dred Scott case, clearly within their jurisdiction as defined by the Constitution, shall be forced upon the country as a political issue, it will become a distinct and naked issue between the friends and enemies of the Constitution—the friends and the enemies of the supremacy of the laws.

Why, this same Supreme Court once decided a national bank to be constitutional; but General Jackson, as President of the United States, disregarded the decision and vetoed a bill for a recharter,¹ partly on constitutional ground declaring that each

¹ See Volume XIII, Chapter iv.

Thus the majority of the Justices composing the Supreme Court, after deciding that Dred Scott had no standing in that court and that the case was therefore entirely beyond or outside of its jurisdiction, proceeded to take and make jurisdiction for the purpose of ousting Congress and the people from all right or power to exclude slavery from the Federal Territories, organized or unorganized.

Senator Stephen A. Douglas [Ill.] accepted the Dred Scott decision, although it denied the principle of his doctrine of popular sovereignty (the right of the people of a Territory either to admit or debar slavery) by stating that slavery extended by force of the Constitution into the Territories.

On June 12, 1857, he delivered a speech at Springfield, Ill., in which he passed under the party yoke on this question. Two weeks later (June 26) Abraham Lincoln replied to him at the same place.

THE SACREDNESS OF JUDICIAL DECISIONS

ABRAHAM LINCOLN

The Dred Scott decision declares two propositions—first, that a negro cannot sue in the United States courts; and, secondly, that Congress cannot prohibit slavery in the Territories. It was made by a divided court—dividing differently on the different points. Judge Douglas does not discuss the merits of the decision and, in that respect, I shall follow his example, believing I could no more improve on McLean and Curtis than he could on Taney.

He denounces all who question the correctness of that decision as offering violent resistance to it. But who resists it? Who has, in spite of the decision, declared Dred Scott free, and resisted the authority of his master over him?

Judicial decisions have two uses—first, to determine absolutely the case decided; and, secondly, to indicate to the public how other similar cases will be decided when they arise. For the latter use they are called "precedents" and "authorities."

We believe as much as Judge Douglas (perhaps more) in obedience to, and respect for, the judicial department of government. We think its decisions on constitutional questions, when

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public functionary must support the Constitution "as he understands it."

Again and again have I heard Judge Douglas denounce that bank decision and applaud General Jackson for disregarding it.

I have said, in substance, that the Dred Scott decision was, in part, based on assumed historical facts which were not really true, and I ought not to leave the subject without giving some reasons for saying this; I therefore give an instance or two which I think fully sustain me. Chief Justice Taney, in delivering the opinion of the majority of the court, insists at great length that negroes were no part of the people who made, or for whom was made, the Declaration of Independence, or the Constitution of the United States.

On the contrary, Judge Curtis, in his dissenting opinion, shows that in five of the then thirteen States—to wit, New Hampshire, Massachusetts, New York, New Jersey, and North Carolina—free negroes were voters, and, in proportion to their numbers, had the same part in making the Constitution that the white people had.

The Chief Justice does not directly assert, but plainly assumes, as a fact, that the public estimate of the black man is more favorable now than it was in the days of the Revolution. This assumption is a mistake. In some trifling particulars the condition of that race has been ameliorated; but, as a whole, in this country the change between then and now is decidedly the other way, and their ultimate destiny has never appeared so hopeless as in the last three or four years. In two of the five States—New Jersey and North Carolina—that then gave the free negro the right of voting, which right has since been taken away, and in a third—New York—it has been greatly abridged; while it has not been extended, so far as I know, to a single additional State, though the number of the States has more than doubled. In those days, as I understand, masters could, at their own pleasure, emancipate their slaves; but since then such legal restraints have been made upon emancipation as to amount almost to prohibition. In those days legislatures held the unquestioned power to abolish slavery in their respective States, but now it is becoming quite fashionable for State constitutions to withhold that power from the legislatures. In those days, by common consent, the spread of the black man's bondage to the new countries was prohibited, but now Congress decides that it will not continue the prohibition, and the Supreme Court decides that it could not if it would. In those days our Declaration

of Independence was held sacred by all and thought to include all, but now, to aid in making the bondage of the negro universal and eternal, it is assailed and sneered at and construed, and hawked at and torn, till, if its framers could rise from their graves they could not at all recognize it. All the powers of earth seem rapidly combining against him. Mammon is after him, ambition follows, philosophy follows, and the theology of the day is fast joining the cry. They have him in his prison-house; they have searched his person, and left no prying instrument with him. One after another they have closed the heavy iron doors upon him; and now they have him, as it were, bolted in with a lock of a hundred keys, which can never be unlocked without the concurrence of every key—the keys in the hands of a hundred different men, and they scattered to a hundred different and distant places; and they stand musing as to what invention, in all the dominions of mind and matter, can be produced to make the impossibility of his escape more complete than it is.

There is a natural disgust in the minds of nearly all white people at the idea of an indiscriminate amalgamation of the white and black races; and Judge Douglas evidently is basing his chief hope upon the chances of his being able to appropriate the benefit of this disgust to himself. If he can, by much drumming and repeating, fasten the odium of that idea upon his adversaries, he thinks he can struggle through the storm. He therefore clings to this hope as a drowning man to the last plank. He makes an occasion for lugging it in from the opposition to the Dred Scott decision. He finds the Republicans insisting that the Declaration of Independence includes all men, black as well as white, and forthwith he boldly denies that it includes negroes at all, and proceeds to argue gravely that all who contend it does, do so only because they want to vote, and eat, and sleep, and marry with negroes! He will have it that they cannot be consistent else. Now I protest against the counterfeit logic which concludes that, because I do not want a black woman for a slave I must necessarily want her for a wife. I need not have her for either. I can just leave her alone. In some respects she certainly is not my equal; but in her natural right to eat the bread she earns with her own hands without asking leave of anyone else, she is my equal and the equal of all others.

Chief Justice Taney, in his opinion in the Dred Scott case, admits that the language of the Declaration is broad enough to include the whole human family, but he and Judge Douglas

No man can vindicate the character, motives, and conduct of the signers of the Declaration of Independence, except upon the hypothesis that they referred to the white race alone, and not to the African, when they declared all men to have been created equal; that they were speaking of British subjects in this continent being equal to British subjects born and residing in Great Britain; that they were entitled to the same inalienable rights, and among them were enumerated life, liberty, and the pursuit of happiness. The Declaration was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British Crown, and dissolving their connection with the mother country.

My good friends, read that carefully over some leisure hour, and ponder well upon it; see what a mere wreck—mangled ruin—it makes of our once glorious Declaration.

"They were speaking of British subjects on this continent being equal to British subjects born and residing in Great Britain!" Why, according to this not only negroes but white people outside of Great Britain and America were not spoken of in that instrument. The English, Irish, and Scotch, along with white Americans, were included, to be sure, but the French, Germans, and other white people of the world are all gone to pot along with the judge's inferior races!

I had thought that the Declaration promised something better than the condition of British subjects; but no, it only meant that we should be equal to them in their own oppressed and unequal condition. According to that it gave no promise that, having kicked off the king and lords of Great Britain, we should not at once be saddled with a king and lords of our own.

I had thought the Declaration contemplated the progressive improvement in the condition of all men everywhere; but no, it merely "was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British Crown, and dissolving their connection with the mother country." Why, that object having been effected some eighty years ago, the Declaration is of no practical use now—mere rubbish—old wadding left to rot on the battlefield after the victory is won.

I understand you are preparing to celebrate the "Fourth" to-morrow week. What for? The doings of that day had no reference to the present; and quite half of you are not even descendants of those who were referred to at that day. But I suppose you will celebrate and will even go so far as to read the Declaration. Suppose, after you read it once in the old-fashioned way you read it once more with Judge Douglas's version. It will then run thus: "We hold these truths to be self-

argue that the authors of that instrument did not intend to include negroes, by the fact that they did not at once actually place them on an equality with the whites. Now this grave argument comes to just nothing at all, by the other fact that they did not at once, or ever afterward, actually place all white people on an equality with one another. And this is the staple argument of both the Chief Justice and the Senator for doing this obvious violence to the plain, unmistakable language of the Declaration.

I think the authors of that notable instrument intended to include all men, but they did not intend to declare all men equal in all respects. They did not mean to say all were equal in color, size, intellect, moral development, or social capacity. They defined with tolerable distinctness in what respects they did consider all men created equal—equal with "certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This they said, and this they meant. They did not mean to assert the obvious untruth that all were then actually enjoying that equality, nor yet that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right, so that enforcement of it might follow as fast as circumstances should permit.

They meant to set up a standard maxim for free society, which should be familiar to all and revered by all; constantly looked to, constantly labored for, and, even though never perfectly attained, constantly approximated and thereby constantly spreading and deepening its influence and augmenting the happiness and value of life to all people of all colors everywhere. The assertion that "all men are created equal" was of no practical use in effecting our separation from Great Britain; and it was placed in the Declaration not for that, but for future use. Its authors meant it to be—as, thank God, it is now proving itself—a stumbling-block to all those who, in after times, might seek to turn a free people back into the hateful paths of despotism. They knew the proneness of prosperity to breed tyrants, and they meant when such should reappear in this fair land and commence their vocation they should find left for them at least one hard nut to crack.

I have now briefly expressed my view of the meaning and object of that part of the Declaration of Independence which declares that "all men are created equal."

Now let us hear Judge Douglas's view of the same subject, as I find it in the printed report of his late speech. Here it is:

evident, that all British subjects who were on this continent eighty-one years ago, were created equal to all British subjects born and then residing in Great Britain."

And now I appeal to all—to Democrats as well as others—are you really willing that the Declaration shall thus be frittered away?—thus left no more, at most, than an interesting memorial of the dead past?—thus shorn of its vitality and practical value, and left without the germ or even the suggestion of the individual rights of man in it?

But Judge Douglas is especially horrified at the thought of the mixing of blood by the white and black races. Agreed for once—a thousand times agreed. There are white men enough to marry all the white women, and black men enough to marry all the black women; and so let them be married. On this point we fully agree with the judge, and, when he shall show that his policy is better adapted to prevent amalgamation than ours, we shall drop ours and adopt his. Let us see. In 1850 there were in the United States 405,751 mulattos. Very few of these are the offspring of whites and free blacks; nearly all have sprung from black slaves and white masters. A separation of the races is the only perfect preventive of amalgamation; but, as an immediate separation is impossible, the next best thing is to keep them apart where they are not already together. If white and black people never get together in Kansas, they will never mix blood in Kansas. That is at least one self-evident truth. A few free colored persons may get into the free States in any event; but their number is too insignificant to amount to much in the way of mixing blood. In 1850 there were in the free States 56,649 mulattos; but for the most part they were not born there—they came from the slave States, ready made up. In the same year the slave States had 348,874 mulattos, all of home production. The proportion of free mulattos to free blacks—the only colored classes in the free States—is much greater in the slave than in the free States. It is worthy of note, too, that among the free States those which make the colored man the nearest equal to the white have proportionably the fewest mulattos, the least of amalgamation. In New Hampshire, the State which goes farthest toward equality between the races, there are just 184 mulattos, while there are in Virginia—how many do you think?—79,775, being 23,126 more than in all the free States together.

These statistics show that slavery is the greatest source of amalgamation, and, next to it, not the elevation, but the degradation of the free blacks. Yet Judge Douglas dreads the slightest

restraints on the spread of slavery, and the slightest human recognition of the negro as tending horribly to amalgamation.

The very Dred Scott case affords a strong test as to which party most favors amalgamation, the Republicans or the dear Union-saving Democracy. Dred Scott, his wife, and two daughters were all involved in the suit. We desired the court to have held that they were citizens so far at least as to entitle them to a hearing as to whether they were free or not; and then, also, that they were in fact and in law really free. Could we have had our way the chances of these black girls ever mixing their blood with that of white people would have been diminished at least to the extent that it could not have been without their consent. But Judge Douglas is delighted to have them decided to be slaves, and not human enough to have a hearing, even if they were free, and thus left subject to the forced concubinage of their masters, and liable to become the mothers of mulattos in spite of themselves: the very state of case that produces nine-tenths of all the mulattos—all the mixing of blood in the nation.

Of course, I state this case as an illustration only, not meaning to say or intimate that the master of Dred Scott and his family, or any more than a percentage of masters generally, are inclined to exercise this particular power which they hold over their female slaves.

I have said that the separation of the races is the only perfect preventive of amalgamation. I have no right to say all the members of the Republican party are in favor of this, nor to say that as a party they are in favor of it. There is nothing in their platform directly on the subject. But I can say a very large proportion of its members are for it, and that the chief plank in their platform—opposition to the spread of slavery—is most favorable to that separation.

Such separation, if ever effected at all, must be effected by colonization; and no political party, as such, is now doing anything directly for colonization. Party operations at present only favor or retard colonization incidentally. The enterprise is a difficult one; but "where there is a will there is a way," and what colonization needs most is a hearty will. Will springs from the two elements of moral sense and self-interest. Let us be brought to believe it is morally right, and at the same time favorable to, or at least not against, our interest to transfer the African to his native clime, and we shall find a way to do it, however great the task may be. The children of Israel, to such numbers as to include four hundred thousand fighting men, went out of Egyptian bondage in a body.

How differently the respective courses of the Democratic and Republican parties incidentally bear on the question of forming a will—a public sentiment—for colonization, is easy to see. The Republicans inculcate, with whatever of ability they can, that the negro is a man, that his bondage is cruelly wrong, and that the field of his oppression ought not to be enlarged. The Democrats deny his manhood; deny, or dwarf to insignificance, the wrong of his bondage; so far as possible, crush all sympathy for him, and cultivate and excite hatred and disgust against him; compliment themselves as Union-savers for doing so; and call the indefinite outspreading of his bondage "a sacred right of self-government."

The plainest print cannot be read through a gold eagle; and it will be very hard to find many men who will send a slave to Liberia and pay his passage while they can send him to a new country—Kansas, for instance—and sell him for fifteen hundred dollars, and the rise.

GREAT DEBATES IN AMERICAN HISTORY

*From the Debates in the British Parliament on the
Colonial Stamp Act (1764-1765) to the Debates
in Congress at the Close of the Taft
Administration (1912-1913)*

EDITED BY

MARION MILLS MILLER, LITT.D. (PRINCETON)

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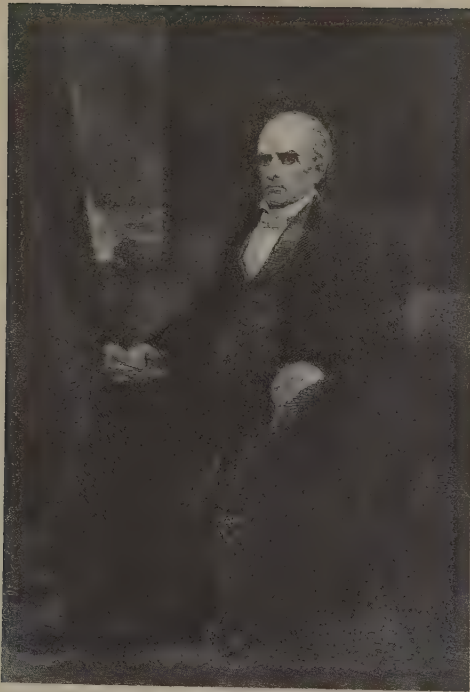
IN FOURTEEN VOLUMES

EACH DEALING WITH A SPECIFIC SUBJECT, AND CONTAINING A SPECIAL INTRODUCTION BY A DISTINGUISHED AMERICAN STATESMAN OR PUBLICIST

VOLUME FIVE

STATE RIGHTS (1798-1861), SLAVERY (1858-1861)

With an Introduction by ETHELBERT D. WARFIELD, LL.D.
President of Lafayette College



Danl Webster

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INTRODUCTION

THE KENTUCKY RESOLUTIONS

I

THE Kentucky legislature on the day of its assembling, the seventh of November, for the session of 1798, was the scene of one of those dramatic incidents which profoundly affect the history of nations. Nothing was more improbable than that any action of this frontier commonwealth should prove to be of significance in the history of the United States. Yet, when John Breckinridge arose in his place to give notice that he would on the next day introduce certain resolutions, he set in motion one of the greatest political movements in American history. The governor, General James Garrard, according to the custom of the day, had just opened the session in person and delivered an address which contained a declaration of firm attachment to the Federal Constitution and a recommendation that the legislature should support the General Government. He, however, had qualified this recommendation by proceeding to suggest that the legislature should protest against "all unconstitutional laws and impolitic proceedings"; and he reminded his hearers that Kentucky, by its situation, was fortunate in being "remote from the contaminating influence of European politics, steady to the prin-

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II

The Kentucky Resolutions were provoked by the act of Congress passed in the violent anti-French reaction of 1798, produced by the publication of the X, Y, Z, dispatches. These acts, consisting of what have come to be known as the Alien and Sedition laws, together with a naturalization act which was primarily intended to discriminate against French immigrants, and other laws of less importance,¹ were a remarkable stretch of authority. Not only so, but they represented an extraordinary failure on the part of the national Government, and particularly of the President and the Federal party, to read the signs of the times. Instead of taking advantage of the wholesome reaction which had taken place in popular opinion, and winning the confidence of the more conservative elements in the democratic drift, the Federalist party proved itself as intemperate as the sympathizers with the French incendiaries. The bills as presented in Congress, especially the Sedition act, were of the most extreme character. The Sedition act was so amended as to remove the more radical features, but enough remained to give point to all that was said against the acts themselves and the party that enacted them.

Mr. Jefferson had already separated himself from the traditions of the past, had recognized fully that the need of the country was not merely the negation of anti-Federalism, and had formulated for himself a policy that was ripe for enunciation. It had also become sufficiently clear that his position was acceptable to the great mass of the people, and that it did not represent hostility to the Constitution so much as the tendency to read into that document greater powers than a reasonable interpretation would justify. The choice of a name for the new party also showed Mr. Jefferson's recognition of the

¹ A notable difference between the Kentucky and Virginia Resolutions is that the Virginia Resolutions deal only with the Alien and Sedition laws, while the Kentucky Resolutions denounce the whole body of objectionable laws *seriatim*. Warfield, "Kentucky Resolutions," p. 107.

ciples of pure republicanism, and an asylum of her persecuted votaries.¹

Mr. Breckinridge, the Representative from Fayette county, was appointed chairman of the committee of three to consider the address and make a report to the House. He gave notice that on the next day he proposed to move that the House should go into committee of the whole on the state of the commonwealth, to take into consideration that portion of the governor's address which referred to certain unconstitutional laws passed at the late session of Congress, and that he would then move certain resolutions on the subject. These resolutions, introduced the next day, were the famous Kentucky Resolutions of 1798.¹

The little scene had been carefully set, and the actors knew well their parts. The governor's address had been planned in consultation with the mover of the resolutions, and the resolutions themselves had been carefully devised by the leaders of the movement which was, through these resolutions, to find definite organization as the Democratic-Republican party.²

The choice of Kentucky as the place where the scene should be enacted is somewhat remarkable. It would have been entirely inexplicable upon the earlier theory of the origin of the resolutions, which attributed the idea primarily to Mr. Jefferson himself, and sought without success the actual mover of the resolutions in George Nicholas, one of Jefferson's most devoted followers, who had found a too early grave a few months before. Many efforts have been made to explain why resolutions of this character were introduced first in the Kentucky legislature. The true solution is certainly to be found in the personality of John Breckinridge, the mover, his active interest in the matter itself, and the probability that he initiated the whole plan of campaign.

¹ *Palladium*, Frankfort, Kentucky, November 13, 1798.

² A curious bit of internal evidence of this is found in the disingenuous reference in the governor's speech and in the fifth resolution to the clause in the Constitution with regard to the "migration or importation of such persons as any of the States now existing shall think proper to admit." (See Warfield, "Kentucky Resolutions," page 108, and McElroy, "Kentucky in the Nation's History," page 243, note.)

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GREAT AMERICAN DEBATES

rôle it was to play. Democratic in nature, it was to be republican in form. The prevalence of the idea of democracy gave to that name less distinction than the name Republican, and the French influences which were operating upon Mr. Jefferson also contributed to accent the Republican half of the name. To accept the Constitution for what it was, and to limit its meaning strictly to what it said, and to secure the largest freedom of action to the people and to the States became the settled policy of the Jeffersonian era. But, by a remarkable failure to clearly penetrate the true nature of the democracy of which he was then believed, and has ever since been believed, to be the protagonist, Mr. Jefferson sought to safeguard popular government by erecting a barrier to the Federal Government in the States. The independence and sovereignty of the States, the respective powers of the ordinary government of the States and the State in sovereign convention became, under the vague conditions of a half-digested political theory, the staple of debate and the occasion of much windy rhetoric.

Mr. Jefferson pursued his main policy with sufficient detachment from the side-issues that attended his progress to enable him to use every kind of profession of democratic faith to promote his ambition. And despite large use of the implied powers of the Constitution and the support of the most intense advocates of narrow provincialism and of freedom for the white man only he substantially advanced the popular ideals of a great and growing country.

The Kentucky Resolutions were primarily intended to promote the Jeffersonian campaign and to give it a platform. They professed to be an attack upon specific encroachments by the central Government. Their significance lies in the fact that they declared a particular theory of the origin and nature of the national Government. Unhappily this theory was hastily put together and capable of the greatest diversity of interpretation. This has rendered the history of the genesis of the movement, the authorship of the resolutions, and the responsibility for the doctrines put forth of the highest interest.

III

The genesis of any great movement must always be subject to different interpretations. The meaning of the Kentucky Resolutions and of those which immediately followed has been befogged by partisan controversy. The authorship also must remain an insoluble problem because it has become colored by political considerations. Probably all the facts that will ever be known have been laid before the public, and there remains a gap in the evidence which is essential to determine two main points: the origin of the idea of offering resolutions in the State legislatures, and the authorship of the first draft of the resolutions offered in Kentucky.

The first point is not very significant, perhaps, but it has a bearing on the initiative in the whole campaign. The facts that resolutions protesting against the Alien and Sedition laws were passed by various local meetings in Kentucky in 1798, that John Breckinridge went to Virginia and was in conference with Mr. Jefferson in the summer of that year, that he offered the resolutions, and for nearly a generation was accepted as their author constitute the basis of the claim that to him belongs the initial step.¹

The controversy with reference to the authorship grew out of the effort of partisans to secure Mr. Jefferson's prestige for their interpretation of the resolutions, and is largely dependent upon the letter written by Mr. Jefferson on December 11, 1821, to Joseph Cabell Breckinridge,² in which Mr. Jefferson asserts his authorship. The advocates of Mr. Breckinridge's claim assert that Mr. Jefferson was old, in failing health, and never generous in admitting the debts he owed to his colleagues and lieutenants. More recent discussion turns upon a very simple set of circumstances.

It is highly probable that there was a conference in Virginia in the summer of 1798 between Mr. Breckin-

¹ Warfield, "Kentucky Resolutions," Chapter II.

² In Mr. Jefferson's published writings this letter appears as to "____ Nicholas, Esq.," which was supposed to mean a son of George Nicholas.

INTRODUCTION

port of the proceedings in the legislature. It is as follows:

"To be explicit, sir, I consider the co-States to be alone parties to the Federal compact, and solely authorized to judge in the last resort of the power exercised under the compact—Congress being not a party, but merely the creature of the compact, and subject as to its assumptions of power to the final judgments of those by whom and for whose use itself and its powers were created."

I have discussed this matter with fulness in my history of the Kentucky Resolutions, while the opposite opinion has been ably presented by one of the chief authorities upon the subject, the late James C. Welling, president of Columbian University, in a review of that book in the *Nation* for December 29, 1887. My view is that the draft was Mr. Breckinridge's, was submitted by him to Mr. Jefferson for consultation with Mr. Nicholas and others, and that the omitted passages were suppressed upon Mr. Jefferson's advice as being a somewhat more radical expression than was deemed wise. The general agreement of the revised resolutions with the Virginia Resolutions seems to me to indicate the Virginia attitude of mind, while the assertion of the position by Mr. Breckinridge in debate and the appearance of the same phraseology in his Kentucky Resolutions of 1799 seem to indicate that the position was his, and is valuable evidence as to his responsible authorship of the resolutions themselves.

IV

Whatever may be the fact with regard to the authorship, two or three very significant facts have become more and more evident.

The first of these is that the Kentucky Resolutions were the first step in the propaganda of the Jeffersonian theory of the relationship of the States to the national Government, and that as such they supplied a popular plan of campaign. On the other hand, recent investigation has made more and more clear the fact that, despite

ridge, Mr. Jefferson, and Wilson Cary Nicholas, at which time it was determined that a definite movement should be undertaken for a popular denunciation of the Alien and Sedition laws, and that the first action should be taken by the Kentucky legislature and resolutions introduced there by John Breckinridge, and that Mr. Madison should be interested in the movement and should be consulted with reference to a further development of the plan. It would also appear that a second conference which had been planned failed to take place, and that the final arrangements were made by correspondence. It cannot be absolutely certain from the documents at hand that Mr. Breckinridge and Mr. Jefferson discussed the matter in detail. The Jefferson papers contain a set of resolutions similar to those introduced into the legislature by Mr. Breckinridge. It is a matter of difference of opinion whether these resolutions originated with Mr. Breckinridge, who communicated them to Mr. Jefferson, or whether they originated with Mr. Jefferson and were communicated to Mr. Breckinridge. Certain divergencies between the draft and the resolutions presented in the legislature are very significant as to the state of mind of Mr. Jefferson, especially as the weight of opinion has been that the portions contained in the Jefferson draft and omitted from the resolutions that were adopted were stricken out by Mr. Breckinridge on Mr. Jefferson's revision of his original proposal.

The chief omission is that of the eighth resolution of the draft: a long, labored, and turgid diatribe, the authorship of which cannot add anything to the reputation of either claimant. In form and in substance it has all the defects of a hastily drawn and half-considered proposal which was expected to receive searching revision. This resolution contains the word nullification—which did not find official enactment until the Kentucky Resolutions of 1799, of which Mr. Breckinridge was indisputably the author—and a fully developed form of the idea of nullification.

A part of the language of this resolution is also found in the report of Mr. Breckinridge's speech in the Kentucky legislature, printed in the *Palladium* in its re-

very prevalent discontent with the action of the general Government, the resolutions were far in advance of the temper of the hour. No other State responded favorably to the lead taken by Kentucky and Virginia. The House of Representatives in Pennsylvania were, indeed, in hearty sympathy with the movement, but they did not dare submit the resolution they had adopted to the Senate, because of its well-known antagonism to the principles advocated. The shrewdness of the position taken by Mr. Jefferson, the appreciation of the undercurrents of opinion, which only needed to be brought to the surface, and his characteristic unwillingness to expose himself to the chances of war are highly characteristic. He left to Mr. Breckinridge and Mr. Madison and their colleagues the feeling of the pulse of the people and the enunciation of the general position which in due season he was to accept and adopt. Thus he kept himself free from such entanglements as would have prevented his developing as he did the implied powers of the Constitution when he became President. The danger of his position can hardly be over-estimated. The history of the resolutions and the struggle to give to them widely divergent interpretations, ranging from the strongly National position, which became characteristic of the Western democracy, to the intensest State rights position, developed with such metaphysical subtlety by Mr. Calhoun, is highly suggestive of the peril which Mr. Jefferson ran of being involved in discussions of details at a time when his object was to overthrow the Federal party and to discredit what he believed to be its extreme extension of the powers of the general Government, in order that he might come to power at the head of a permanent party organization.

V

It is important to keep in mind that the Kentucky Resolutions distinctly state that the several States are united by compact, and that "to this compact each State acceded as a State, its co-States forming as to itself the other party," and "that, as in all other cases of com-

pact among parties having no common judge, each party has an equal right to judge for itself as well of infractions as of the mode and measure of redress." It is scarcely necessary to emphasize the difference between this and the view so frequently asserted in later years, that the general Government was constituted by a compact to which it was itself a party, each State forming as to itself the other party. It is scarcely more necessary to point out the various shades of interpretation given to the idea presented by the Kentucky and Virginia Resolutions, or how far short they fall of the interpretation which has been adopted through the influence of political and judicial action.

It is important, however, to note that the view of the nature of the general Government, which may be regarded as having the support of the best authority at the present time, was clearly enunciated in the Kentucky legislature by Mr. William Murray, of Franklin county, who alone opposed the resolutions from the beginning to the end. Mr. Murray pointed out that the "Constitution of the United States was rendered necessary by want of energy in the former Confederation," and that the Constitution "was not merely a covenant between integral States but a compact between the several individuals composing those States, and accordingly the Constitution commences with this form of expression: 'We, the people of the United States,' not we the thirteen States of America." He proceeded to declare that "to the judiciary, and the judiciary alone, it belongs to declare what acts of legislature are law and what are not law. And to their honor be it said that they have, with an independence becoming their character, declared an act passed by Congress no law."

This position, so ably but so vainly urged by Mr. Murray, was asserted by the Massachusetts legislature in its response to the Kentucky Resolutions as well as in other replies.

It is almost necessary, in order to illustrate the position of the Kentucky Resolutions, to quote the significant words of Mr. Madison in the Virginia Resolutions, contained in the third article:

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check the centralization, which seemed to subordinate the new States to the older communities.

It is scarcely possible at this late date, with the complete change of accent in political thinking, to realize how extremely significant the questions that are connected with these resolutions, their authorship, and the peculiar attitude of Mr. Jefferson, were for more than half a century, yet in these resolutions there is a germ of truth which may well be cultivated afresh in a time when the spirit of the age seems to favor the unlimited consolidation of government in a single element of it.

E. D. Taft

"That, in case of a deliberate, palpable, and dangerous exercise of powers not granted by the compact, the States who are parties thereto have a right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

That this point of view is highly illustrative of current political thinking is further proved by the almost identical words used by the Hartford convention when the New England States found themselves in a similar attitude to the general Government. The following passage is so similar to the words of Mr. Madison that it seems almost incredible that it was adopted by a body of intelligent men in opposition to the policy of Mr. Madison as President:

"In case of deliberate, dangerous, and palpable infraction of the Constitution affecting the sovereignty of the State and liberties of the people, it is not only the right, but the duty of such a State to interpose its authority for their protection in the manner best calculated to secure the end."

VII

The literature of the subject has been vitalized by almost every force which has entered into the political history of our country. The vivid and vigorous, if not always well-informed oratory of the new West, the intense and highly dramatic eloquence of the Southern leaders of the contest for the perpetuation of slavery and a provincial type of civilization, the legal learning of the best school of New England statesmanship, and the great national debates growing out of the struggle of a young nation to rise to a consciousness of its unity and power have all contributed to the interpretation of the resolutions. Jeffersonian Democracy would have been glad to be rid of many of the associations which early attached themselves to the resolutions. The State rights party of Calhoun developed every possibility of a particularist interpretation. The Western Democracy, full of a spirit of national enthusiasm, strove to use them to

CHAPTER I

STATE RIGHTS

The Kentucky and Virginia Resolutions of Thomas Jefferson and James Madison: Senator Thomas H. Benton [Mo.] and Professor Alexander Johnston on Their "Theory of Compact" as Opposed to the Calhoun Theory of Nullification—The Hartford Convention: Its Report—Senator Robert Y. Hayne [S. C.] on the "Treason of New England" as Expressed in the Convention—The Tariff of 1828—Threats of Secession by South Carolina and Georgia—President John Quincy Adams's "Appeal to the South"—Senator William Smith [S. C.] and Senator Hayne on the Protests of South Carolina and Georgia.

THE repeal of the Missouri Compromise and the Dred Scott decision marked the high tide of victory for the South in the controversy upon slavery. It was soon seen, however, indeed it had been foreseen before their accomplishment, that the triumph would prove a merely formal one, empty of all practical benefit. Accordingly, from this time onward, Southern statesmen began seriously to contemplate that measure to which they had so often threatened in moments of passion to resort—secession.

It is therefore in place here to revert to the question of State versus National rights, as enunciated by such Southern statesmen as Thomas Jefferson and James Madison in the early history of the republic, and to the threats of separation from the Union made in the Hartford convention and in the nullification proceedings of South Carolina and Georgia against the tariff acts of 1828 and 1832.

THE KENTUCKY AND VIRGINIA RESOLUTIONS

The views of Jefferson and Madison were formally presented in the Kentucky and Virginia resolutions. Rising out of the Alien and Sedition laws these will be

discussed, in origin and results, in the volume on Civic Rights [see Vol. VII, chapter iv]. Only that portion of them which applies directly to the right of secession will be taken up in the present connection.

The first of the resolutions presented by the Kentucky legislature (inspired if not by Jefferson by his political theory) was as follows:

1. The Union of the States is a *compact*, by which each State delegates to the Federal Government definite powers, reserving to itself the residuary mass of right to its own self-government. When, therefore, the Federal Government assumes undelegated powers, its acts are void. The Federal Government was not constituted by the compact a final judge of the extent of its delegated powers, since this would have made its discretion and not the Constitution the measure of its powers. The Constitution established no common judge between the Federal Government and the State governments, and, according to the practice in all compacts of this kind, *each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.*

The Kentucky resolutions were, as described in the chapter upon them, sent to the legislatures of the various States. All but Virginia replying in opposition to them, the Kentucky legislature added a supplementary resolution which contained the assertion that:

The several States which formed the Constitution, being sovereign and independent, have the unquestionable right to judge of its infraction; and a nullification by these sovereignties of all unauthorized acts done under color of that instrument is the rightful remedy.

The Virginia resolutions, drafted by James Madison, after asserting the doctrine of a strict construction of the Constitution, left it entirely to inference that if the Federal Government passed acts which, according to this Constitution, were unconstitutional the States concerned would have a right to resort to nullification. Thomas H. Benton, indeed, in his "Thirty Years' View" denied that the Virginia resolutions warrant this infer-

phatically calls the doctrine of nullification—in the institutions they had so labored to construct.

The theory of a "compact" between the States and the Federal Government, as expressed by Jefferson and Madison in the resolutions, was made a basis of the claim of the "Secessionists" of a later period, although they found more logical grounds in the theory of Calhoun that the "compact" was between the States themselves, and that the Federal Government was the result of the compact and not a party to it.

"Daniel Webster," says Prof. Alexander Johnston in his "American Political History," "ridiculed unsparingly the idea that the States could form a compact with another party which was only created by the compact and non-existent before it."

"Jefferson and his school would have looked upon forcible resistance by a single State to an oppressive Federal law . . . as . . . revolutionary . . . It was so stated in 1829-30 by Edward Livingston, the devoted adherent of Jefferson in 1798.

"In a constitutional point of view, this fundamental difference between the right of 'the States' in natural convention, and of a single State, *proprio vigore*,¹ to 'nullify' acts of Congress, and to interpret the Constitution, above and beyond the Federal judiciary, is the essential difference between the 'nullification' of Jefferson and that of Calhoun. The strongest evidence to the contrary is a sentence in Jefferson's original draft of the Kentucky resolutions. It is as follows: 'that every State has a natural right, in cases not within the compact, to nullify of their own authority all assumptions of power by others within their limits.' This was struck out in the final copy of the resolutions, but by whom is not known. Various explanations of this sentence have been offered, the most plausible being that the inexcusable sentence was due only to heat of composition, and was struck out by Jefferson on his realizing the full force of what he had written. On the one hand, this sentence has arrayed against it a great mass of contemporary testimony; on the other, if it is to stand as Jefferson's perfected theory, every atom of Calhoun's perfected theory finds in it a perfect antetype.

"It is also fair and proper, in this connection, to call the reader's special attention to a letter of December 24, 1825,

¹"Of its own force."

ence and, on the contrary, maintained that Madison's doctrine was directly opposed to nullification as upheld by Calhoun. He said:

The right and duty of "the States" to interpose certainly does not mean the right of "a State" to nullify and set at naught. The States—less than the whole number—have a right to interpose, secured, as already shown, in the Constitution; and this, not only persuasively, but peremptorily; to compel the action they may desire; and it is demonstrable that it was this constitutional provision that the Virginia legislature had in mind, as a last resort. The resolutions do not speak anywhere of the right of a State, but use the plural number, States. Virginia exercises the right that pertains to a State—all the right that, in the premises, she pretends to—in passing the resolutions, declaring her views, and inviting the like action of her co-States. Instead, therefore, of the resolutions being identical with nullification (according to Calhoun), the two doctrines are not merely hostile, but exactly opposites; the sum of the Virginia doctrine being that it belongs to a State to take, as Virginia does in this instance, the initiative in impeaching any objectionable action of the Federal Government, and to ask her co-States to coöperate in procuring the repeal of a law, a change of policy, or an amendment of the Constitution—according as one or the other, or all, may be required to remedy the evil complained of; whereas nullification claims that a single State may, of its own motion, nullify any act of the Federal Government it objects to, and stay its operation, until three-fourths of all the States come to the aid of the national authority and reenact the nullified measure. One submits to the law till a majority repeal it, or a convention provides a constitutional remedy for it; the other undertakes to annul the law, and suspend its operation, so long as three-fourths of the States are not brought into active coöperation to declare it valid. The resolutions maintain the Government in all functions, only seeking to call into use the particular function of repeal or amendment; nullification would stop the functions of Government and arrest laws indefinitely; and is incapable of being brought to actual experiment, in a single instance, without a subversion of authority, or civil war. To this essential, radical, antagonistic degree do the Virginia resolutions and the doctrine of nullification differ, one from the other; and thus unjustly are the Virginia Republicans of 1798 accused of planting the seeds of dissolution—a "deadly poison," as Mr. Madison himself em-

from Jefferson to Madison, which has never hitherto received the prominence which it deserves. It is on the subject of internal improvements. He regards opposition to the new system as 'desperate,' but proposes a new series of resolutions, to be passed by the Virginia legislature, as a protest against it. They are much like the Resolutions of 1798, but conclude by demanding an amendment to the Constitution to grant the doubtful power, and by promising for the State and imposing upon the citizens of the State an acquiescence in the acts 'which we have declared to be a usurpation' 'until the legislature shall otherwise and ultimately decide.'"

A letter of Jefferson to Justice William Johnston, on June 12, 1823, gives in a nutshell the opinion of the author of the Kentucky resolutions upon the same point:

"The ultimate arbiter is the people of the Union, assembled by their deputies in convention, at the call of Congress, or of two-thirds of the States. Let them decide to which they mean to give an authority claimed by two of their organs [i. e., the Federal Government, or the States]."

THE HARTFORD CONVENTION

The Hartford convention has already been referred to [in Vol. II, page 217] in connection with the Second War with Great Britain. It played, however, a far greater part in our civil and domestic politics than in our military and foreign concerns, dealing as it did with the questions of State and civic rights.

The Administration of James Madison, indeed, believing that the purpose of the convention of representatives from New England legislatures and conventions was nothing less than the dissolution of the Union, sent an army officer to Hartford to oversee its deliberations, and Congress (strongly Republican) requested the President to appoint a day for national fasting and prayer.

The convention deliberated in secret for three weeks, until January 5, 1815, when it adopted a report to the legislature and counties represented.

REPORT OF THE CONVENTION

[ABRIDGED]

The convention is deeply impressed with the arduous nature of its commission, which is to devise relief from the oppressions of the Government without violating constitutional principles. Yet when abuses are so gross as those complained of, and are clothed with the forms of law, and enforced by an Executive whose will is their source, direct and open resistance is the only recourse. Necessity alone can sanction this, and the resistance must not be extended beyond the exigency, it being left to the people, in calmer moments and after full deliberation, to reform the abuses by a change of the Constitution.

The convention believes that some new form of confederacy should be substituted among those States which shall intend to maintain a federal relation to each other. Events may prove that the causes of our calamities are deep and permanent. They may be found to proceed, not merely from the blindness of prejudice, pride of opinion, violence of party spirit, or the confusion of the times; but they may be traced to implacable combinations of individuals, or of States, to monopolize power and office, and to trample without remorse upon the rights and interests of commercial sections of the Union. Whenever it shall appear that these causes are radical and permanent, a separation, by equitable arrangement, will be preferable to an alliance by constraint, among nominal friends, but real enemies, inflamed by mutual hatred and jealousy, and inviting, by intestine divisions, contempt and aggression from abroad. But a severance of the Union by one or more States, against the will of the rest, and especially in a time of war, can be justified only by absolute necessity. These are among the principal objections against precipitate measures tending to disunite the States, and, when examined in connection with the farewell address of the Father of his Country, they must, it is believed, be deemed conclusive.

The power of dividing the militia of the States into classes, and obliging such classes to furnish, by contract or draft, able-bodied men, to serve for one or more years for the defence of the frontier, is not delegated to Congress. With a power in Congress to authorize such a draft or conscription, and in the Executive to decide conclusively upon the existence and continuance of the emergency, the whole militia may be converted into a standing army disposable at the will of the President of the United States.

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and continue to sustain the burden of the national taxes. The Administration, after a long perseverance in plans to baffle every effort of commercial enterprise, had fatally succeeded in their attempts at the epoch of the war. Commerce, the vital spring of New England's prosperity, was annihilated.

Taxes, of a description and amount unprecedented in this country, are in a train of imposition, the burden of which must fall with the heaviest pressure upon the States east of the Potomac. The amount of these taxes for the ensuing year cannot be estimated at less than five millions of dollars upon the New England States, and the expenses of the last year for defence, in Massachusetts alone, approach to one million of dollars.

This convention will not trust themselves to express their conviction of the catastrophe to which such a state of things inevitably tends. Conscious of their high responsibility to God and their country, solicitous for the continuance of the Union, as well as the sovereignty of the States, unwilling to furnish obstacles to peace—resolute never to submit to a foreign enemy, and confiding in the Divine care and protection, they will, until the last hope shall be extinguished, endeavor to avert such consequences.

With this view they suggest an arrangement, which may at once be consistent with the honor and interest of the National Government, and the security of these States. This it will not be difficult to conclude, if that Government should be so disposed. By the terms of it these States might be allowed to assume their own defence, by the militia or other troops. A reasonable portion, also, of the taxes raised in each State might be paid into its treasury, and credited to the United States, but to be appropriated to the defence of such State, to be accounted for with the United States.

The convention feels it its duty to enumerate the abuses of the Federal Government which have contributed to its downfall from the high estate it held under George Washington and John Adams.

First.—A deliberate and extensive system for effecting a combination among certain States, by exciting local jealousies and ambition, so as to secure to popular leaders in one section of the Union the control of public affairs in perpetual succession. To which primary object most other characteristics of the system may be reconciled.

Secondly.—The political intolerance displayed and avowed in excluding from office men of unexceptionable merit, for want of adherence to the executive creed.

Had the troops already raised, and in great numbers sacrificed upon the frontier of Canada, been employed for the defence of the country, and had the millions which have been squandered with shameless profusion been appropriated to their payment, to the protection of the coast, and to the naval service, there would have been no occasion for unconstitutional expedients.

That acts of Congress in violation of the Constitution are absolutely void is an undeniable position. It does not, however, consist with respect and forbearance due from a Confederate State toward the general Government to fly to open resistance upon every infraction of the Constitution. The mode and the energy of the opposition should always conform to the nature of the violation, the intention of its authors, the extent of the injury inflicted, the determination manifested to persist in it, and the danger of delay. But in cases of deliberate, dangerous, and palpable infractions of the Constitution, affecting the sovereignty of a State, and liberties of the people; it is not only the right but the duty of such a State to interpose its authority for their protection, in the manner best calculated to secure that end. When emergencies occur which are either beyond the reach of the judicial tribunals, or too pressing to admit of the delay incident to their forms, States which have no common umpire must be their own judges, and execute their own decisions.

Without pausing at present to comment upon the causes of the war, it may be assumed as a truth, officially announced, that to achieve the conquest of Canadian territory, and to hold it as a pledge for peace, is the deliberate purpose of the Administration.

The seaboard States have been left to adopt measures for their own defence. The President of the United States has refused to consider the expense of the militia detached by State authority, for the indispensable defence of the State, as chargeable to the Union, on the ground of a refusal by the executive of the State to place them under the command of officers of the regular army. Detachments of militia placed at the disposal of the general Government have been dismissed either without pay, or with depreciated paper.

If the war be continued, there appears no room for reliance upon the National Government for the supply of those means of defence which must become indispensable to secure these States from desolation and ruin. Nor is it possible that the States can discharge this sacred duty from their own resources,

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Thirdly.—The infraction of the judiciary authority and rights, by depriving judges of their offices in violation of the Constitution.

Fourthly.—The abolition of existing taxes, requisite to prepare the country for those changes to which nations are always exposed, with a view to the acquisition of popular favor.

Fifthly.—The influence of patronage in the distribution of offices, which in these States has been almost invariably made among men the least entitled to such distinction, and who have sold themselves as ready instruments for distracting public opinion, and encouraging administration to hold in contempt the wishes and remonstrances of a people thus apparently divided.

Sixthly.—The admission of new States into the Union, formed at pleasure in the Western region, has destroyed the balance of power which existed among the original States, and deeply affected their interest.

Seventhly.—The easy admission of naturalized foreigners, to places of trust, honor, or profit, operating as an inducement to the malcontent subjects of the old world to come to these States, in quest of executive patronage, and to repay it by an abject devotion to executive measures.

Eighthly.—Hostility to Great Britain, and partiality to the late Government of France, adopted as coincident with popular prejudice, and subservient to the main object, party power. Connected with these must be ranked erroneous and distorted estimates of the power and resources of those nations, of the probable results of their controversies, and of our political relations to them respectively.

Lastly and principally.—A visionary and superficial theory in regard to commerce, accompanied by a real hatred but a feigned regard to its interests, and a ruinous perseverance in efforts to render it an instrument of coercion and war.

But it is not conceivable that the obliquity of any administration could, in so short a period, have so nearly consummated the work of national ruin, unless favored by defects in the Constitution.

To enumerate all the improvements of which that instrument is susceptible, and to propose such amendments as might render it in all respects perfect, would be a task which this convention has not thought proper to assume. They have confined their attention to such as experience has demonstrated to be essential, and, even among these, some are considered entitled to a more serious attention than others. They are suggested without any intentional disrespect to other States, and are meant

to be such as all shall find an interest in promoting. Their object is to strengthen, and if possible to perpetuate, the union of the States, by removing the grounds of existing jealousies, and providing for a fair and equal representation, and a limitation of powers which have been misused.

The first amendment proposed relates to the apportionment of representatives among the slaveholding States. This cannot be claimed as a right. Those States are entitled to the slave representation by a constitutional compact. It is therefore merely a subject of agreement, which should be conducted upon principles of mutual interest and accommodation, and upon which no sensibility on either side should be permitted to exist. It has proved unjust and unequal in its operation. Had this effect been foreseen, the privilege would probably not have been demanded; certainly not conceded. Its tendency in future will be adverse to that harmony and mutual confidence which are more conducive to the happiness and prosperity of every confederated State than a mere preponderance of power, the prolific source of jealousies and controversy, can be to any one of them. The time may therefore arrive when a sense of magnanimity and justice will reconcile those States to acquiesce in a revision of this article, especially as a fair equivalent would result to them in the apportionment of taxes.

The next amendment relates to the admission of new States into the Union.

At the adoption of the Constitution, a certain balance of power among the original parties was considered to exist, and there was at that time, and yet is, among those parties a strong affinity between their great and general interests. By the admission of these States that balance has been materially affected, and unless the practice be modified must ultimately be destroyed.

The next amendments proposed by the convention relate to the powers of Congress, in relation to the embargo and the interdiction of commerce.

No union can be durably cemented, in which every great interest does not find itself reasonably secured against the encroachment and combinations of other interests. When, therefore, the past system of embargoes and commercial restrictions shall have been reviewed—when the fluctuation and inconsistency of public measures, betraying a want of information as well as feeling in the majority, shall have been considered, the reasonableness of some restrictions upon the power of a bare majority to repeat these oppressions will appear to be obvious.

The next amendment proposes to restrict the power of making offensive war. Rarely can the state of this country call for or justify offensive war. The genius of our institutions is unfavorable to its successful prosecution; the felicity of our situation exempts us from its necessity. In this case, as in the former, those more immediately exposed to its fatal effects are a minority of the nation. The commercial towns, the shores of our seas and rivers, contain the population whose vital interests are most vulnerable by a foreign enemy. Agriculture, indeed, must feel at last, but this appeal to its sensibility comes too late. Again, the immense population which has swarmed into the West, remote from immediate danger, and which is constantly augmenting, will not be averse from the occasional disturbances of the Atlantic States. Thus interest may not unfrequently combine with passion and intrigue to plunge the nation into needless wars, and compel it to become a military, rather than a happy and flourishing, people. These considerations, which it would be easy to augment, call loudly for the limitation proposed in the amendment.

Another amendment, subordinate in importance, but still in a high degree expedient, relates to the exclusion of foreigners hereafter arriving in the United States from the capacity of holding offices of trust, honor, or profit.

It is agreed that a liberal policy should offer the rights of hospitality, and the choice of settlement, to those who are disposed to visit the country. But why admit to a participation in the Government aliens who were no parties to the compact—who are ignorant of the nature of our institutions, and have no stake in the welfare of the country but what is recent and transitory? It is surely a privilege sufficient, to admit them after due probation to become citizens, for all but political purposes. To extend it beyond these limits is to encourage foreigners to come to these States as candidates for preferment.

The last amendment respects the limitation of the office of President to a single Constitutional term, and his eligibility from the same State two terms in succession.

Upon this topic it is superfluous to dilate. The love of power is a principle in the human heart which too often impels to the use of all practicable means to prolong its duration. The office of President has charms and attractions which operate as powerful incentives to this passion. The first and most natural exertion of a vast patronage is directed toward the security of a new election. The interest of the country, the welfare of the people, even honest fame and respect for the opinion of poster-

ity, are secondary considerations. All the engines of intrigue, all the means of corruption are likely to be employed for this object. A President whose political career is limited to a single election may find no other interest than will be promoted by making it glorious to himself, and beneficial to his country. But the hope of reelection is prolific of temptations, under which these magnanimous motives are deprived of their principal force. The repeated election of the President of the United States from any one State affords inducements and means for intrigues which tend to create an undue local influence and to establish the domination of particular States. The justice, therefore, of securing to every State a fair and equal chance for the election of this officer from its own citizens is apparent, and this object will be essentially promoted by preventing an election from the same State twice in succession.

The convention dissolved with the statement that, if its proposals in regard to the embargo and related matters should not be agreed to, and if the defence of the New England States should still be neglected, a further convention would be created "with such powers and instructions as the exigency of a crisis so momentous may require." This was accepted at the time and thereafter as a threat of secession.

The ending of the war by the Treaty of Ghent rendered such a further convocation untimely, and thereafter the New England States never, by the slightest intimation, indicated that they contemplated secession, but, on the contrary, became more and more pronounced in favor of nationalism. Nevertheless the Southerners continually cast the Hartford convention up to the North as interdicting any complaint from that quarter against secession by the South.

Thus, in 1830, during the agitation over nullification, Robert Y. Hayne, Senator from South Carolina, alluded to the Hartford convention. After depicting in glowing colors the calamities of the country at the time the convention assembled, he represented the conduct of the Eastern States, in relation to the war, in as reprehensible a light as the force of language would enable him. For the facts to support his statements, he relied principally upon a partisan book entitled "The Olive



From the collection of the New York Historical Society

Branch," published shortly after the convention by Theodore Dwight, its secretary. Senator Hayne said:

THE TREASON OF NEW ENGLAND

SENATOR HAYNE

As soon as the public mind was sufficiently prepared for the measure [secession], the celebrated Hartford Convention was got up; not as the act of a few unauthorized individuals, but by authority of the legislature of Massachusetts; and, as has been shown by the able historian of that convention, in accordance with the views and wishes of the party of which it was the organ. Now, sir, I do not desire to call in question the motives of the gentlemen who composed that assembly; I knew many of them to be in private life accomplished and honorable men, and I doubt not there were some among them who did not perceive the dangerous tendency of their proceedings. I will even go further, and say that, if the authors of the Hartford Convention believed that "gross, deliberate, and palpable violations of the Constitution" had taken place, utterly destructive of their rights and interests, I should be the last man to deny their right to resort to any constitutional measures for redress. But, sir, in any view of the case, the time when and the circumstances under which that convention assembled, as well as the measures recommended, render their conduct, in my opinion, wholly indefensible.

Let us contemplate for a moment the spectacle then exhibited to the view of the world. I will not go over the disasters of the war nor describe the difficulties in which the Government was involved. It will be recollected that its credit was nearly gone, Washington had fallen, the whole coast was blockaded, and an immense force, collected in the West Indies, was about to make a descent which it was supposed we had no means of resisting. In this awful state of our public affairs, when the Government seemed to be almost tottering on its base, when Great Britain, relieved from all her other enemies, had proclaimed her purpose of "reducing us to unconditional submission"—we beheld the peace party in New England (in the language of the work ["The Olive Branch"] before us) pursuing a course calculated to do more injury to their country and to render England more effective service than all her armies. Those who could not find it in their hearts to rejoice at our victories sang "Te Deum" at the King's Chapel in Bos-

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Government would be compelled to support its claim by force.

APPEAL TO THE SOUTH

MESSAGE OF PRESIDENT ADAMS, DECEMBER 2, 1823

The tariff of the last session was, in its details, not acceptable to the great interests of any portion of the Union, not even to the interest which it was specially intended to subserve. Its object was to balance the burdens upon native industry imposed by the operation of foreign laws; but not to aggravate the burdens of one section of the Union by the relief afforded to another. To the great principle sanctioned by that act, one of those upon which the Constitution itself was formed, I hope and trust the authorities of the Union will adhere. But if any of the duties imposed by the act only relieve the manufacturer by aggravating the burden of the planter, let a careful revial of its provisions, enlightened by the practical experience of its effects, be directed to retain those which impart protection to native industry, and remove or supply the place of those which only alleviate one great national interest by the depression of another.

The United States of America, and the people of every State of which they are composed, are each of them sovereign powers. The legislative authority of the whole is exercised by Congress, under authority granted them in the common Constitution. The legislative power of each State is exercised by assemblies deriving their authority from the constitution of the State. Each is sovereign within its own province. The distribution of power between them presupposes that these authorities will move in harmony with each other. The members of the State and general Governments are all under oath to support both, and allegiance is due to the one and to the other. The case of a conflict between these two powers has not been supposed; nor has any provision been made for it in our institutions—as a virtuous nation of ancient times existed more than five centuries without a law for the punishment of parricide.

More than once, however, in the progress of our history, have the people and legislatures of one or more States, in moments of excitement, been instigated to this conflict; and the means of effecting this impulse have been allegations that the acts of Congress to be resisted were unconstitutional. The

ton at the restoration of the Bourbons. Those who would not consent to illuminate their dwellings for the capture of the *Guerriere* could give visible tokens of their joy at the fall of Detroit. The "beacon fires" of their hills were lighted up, not for the encouragement of their friends, but as signals to the enemy; and in the gloomy hours of midnight the very lights burned blue. Such were the dark and portentous signs of the times which ushered into being the renowned Hartford Convention. That convention met, and from their proceedings it appears that their chief object was to keep back the men and money of New England from the service of the Union and to effect radical changes in the Government—changes that can never be effected without a dissolution of the Union.

NULLIFICATION

The Tariff Act of 1828 (see Vol. XII, chapter iv) caused great indignation in the South, especially in South Carolina and Georgia. Mass meetings were held in these States, at which speeches were made and resolutions passed threatening secession from the Union unless the bill were repealed, and calling on the other Southern States to adopt the same attitude. However, this call was not heeded, since there was a general expectation that a Southern man, Andrew Jackson [Tenn.] would be chosen President in the fall election and that he would uphold the cause of his section. Indeed, South Carolina and Georgia, after recording their formal protests against the tariff in the Senate, also decided to cease their agitation and await events.

The North in general, with reprehensible blindness in view of the resolution passed by the Hartford Convention under no great provocation, failed to realize the seriousness of the Southern attitude. President John Quincy Adams, however, felt the gravity of the situation and, in his message of December 2, 1828, strove to pacify the disaffected section of the country by extending hopes of a revision of the obnoxious act and by appealing to the good sense of the Southerners not to enter into a conflict in which, by an anomaly of the Constitution, there was no competent judge, and the Federal

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people of no one State have ever delegated to their legislature the power of pronouncing an act of Congress unconstitutional; but they have delegated to them powers, by the exercise of which the execution of the laws of Congress within the State may be resisted. If we suppose the case of such conflicting legislation sustained by the corresponding executive and judicial authorities, patriotism and philanthropy turn their eyes from the condition in which the parties would be placed, and from that of the people of both, which must be its victims.

On January 12, 1829, the legislature of Georgia, through one of the Senators of the State, J. McPherson Berrien, entered its solemn protest against the tariff for record in the Senate archives.

PROTEST OF GEORGIA

In her sovereign character the State of Georgia protests against the act of the last session of Congress, entitled "An act in alteration of the several acts imposing duties on imports," as deceptive in its title, fraudulent in its pretenses, oppressive in its exactions, partial and unjust in its operations, unconstitutional in its well-known objects, ruinous to commerce and agriculture—to secure a hateful monopoly to a combination of importunate manufacturers.

Demanding the repeal of an act which has already disturbed the Union and endangered the public tranquillity, weakened the confidence of whole States in the Federal Government, and diminished the affection of large masses of the people to the Union itself, and the abandonment of the degrading system which considers the people as incapable of wisely directing their own enterprise; which sets up the servants of the people in Congress as the exclusive judges of what pursuits are most advantageous and suitable for those by whom they were elected, the State of Georgia expects that, in perpetual testimony thereof, the deliberate and solemn expression of her opinion will be carefully preserved among the archives of the Senate; and in justification of her character to the present generation, and to posterity, if, unfortunately, Congress, disregarding the protest, and continuing to pervert powers granted for clearly defined and well-understood purposes, to effectuate objects never intended by the great parties by whom the Constitution was framed, to be entrusted to the controlling guardianship of

the Federal Government, should render necessary measures of a decisive character, for the protection of the people of the State, and the vindication of the Constitution of the United States.

Senator Berrien spoke as follows upon the protest:

Forty years of successful experiment have proved the efficiency of this Government to sustain us in an honorable intercourse with the other nations of the world. Externally, in peace and in war, amid the fluctuations of commerce and the strife of arms, it has protected our interests and defended our rights. One trial, one fearful trial, yet remains to be made. It is one under the apprehension of which the bravest may tremble—which the wise and the good will anxiously endeavor to avoid. It is that experiment which shall test the competency of this Government to preserve our internal peace whenever a question vitally affecting the bond which unites us as one people shall come to be solemnly agitated between the sovereign members of this confederacy. In proportion to its dangers should be our solicitude to avoid it by abstaining, on the one hand, from acts of doubtful legislation, as well as by the manner of resistance, on the other, to those which are deemed unconstitutional. Between the independent members of this confederacy, sir, there can be no common arbiter. They are necessarily remitted to their own sovereign will, deliberately expressed, in the exercise of those reserved rights of sovereignty, the delegation of which would have been an act of political suicide. The designation of such an arbiter, sir, was, by the force of invincible necessity, *casus omissus* among the provisions of a Constitution conferring limited powers, the interpretation of which was to be confided to the subordinate agents created by those who were entrusted to administer it.

I earnestly hope that the wise and conciliatory spirit of this Government and of those of the several States will postpone to a period far distant the day which will summon us to so fearful a trial. If we are indeed doomed to encounter it, I as earnestly hope that it may be entered upon in the spirit of peace and with cherished recollections of former amity. But the occasion which shall impel the sovereign people of even one of the members of this confederacy to resolve that they are not bound by its acts is one to which no patriot can look with levity nor yet with indifference.

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extravagant results; since the encouragement of domestic industry implies an absolute control over all the interests, resources, and pursuits of a people; and is inconsistent with the idea of any other than a simple consolidated government.

5. Because, from the contemporaneous expositions of the Constitution, in the numbers of *The Federalist* (which is cited only because the Supreme Court has recognized its authority), it is clear that the power to regulate commerce was considered by the convention as only incidentally connected with the encouragement of agriculture and manufactures; and because the power of laying imposts and duties on imports was not understood to justify in any case a prohibition of foreign commodities, except as a means of extending commerce by coercing foreign nations to a fair reciprocity in their intercourse with us, or for some other bona fide commercial purpose.

6. Because, while the power to protect manufactures is nowhere expressly granted to Congress, nor can be considered as necessary and proper to carry into effect any specified power, it seems to be expressly reserved to the States by the tenth section of the first article of the Constitution.

7. Because, even admitting Congress have a constitutional right to protect manufactures by the imposition of duties or by regulations of commerce designed principally for that purpose, yet a tariff of which the operation is grossly unequal and oppressive is such an abuse of power as is incompatible with the principles of a free government and the great ends of civil society, justice, and equality of rights and protection.

8. Finally because South Carolina, from her climate, situation, and peculiar institutions, is, and must ever continue to be, wholly dependent upon agriculture and commerce, not only for her prosperity but for her very existence as a State—because the valuable products of her soil, the blessings by which Divine Providence seems to have designed to compensate for the great disadvantages under which she suffers in other respects, are among the very few that can be cultivated with any profit by slave labor; and, if by the loss of her foreign commerce these products should be confined to an inadequate market, the fate of this fertile State would be poverty and utter desolation; her citizens, in despair, would emigrate to more fortunate regions, and the whole frame and constitution of her civil polity be impaired and deranged, if not dissolved entirely.

Deeply impressed with these considerations, the representatives of the good people of this commonwealth, anxiously desiring to live in peace with their fellow citizens and to do

South Carolina made its protest on February 10, 1829, through one of its Senators, William Smith.

PROTEST OF SOUTH CAROLINA

The Senate and House of Representatives of South Carolina do solemnly protest against the system of protecting duties lately adopted by the Federal Government, for the following reasons:

1. Because the good people of this commonwealth believe that the powers of Congress were delegated to it in trust for the accomplishment of certain specified objects which limit and control them, and that every exercise of them for any other purpose is a violation of the Constitution as unwarrantable as the undisguised assumption of substantive independent powers not granted or expressly withheld.

2. Because the power to lay duties on imports is, and in its very nature can be, only a means of effecting the objects specified by the Constitution; since no free Government, and, least of all, a Government of enumerated powers, can, of right, impose any tax (any more than a penalty) which is not at once justified by public necessity and clearly within the scope and purview of the social compact; and since the right of confining appropriations of the public money to such legitimate and constitutional objects is as essential to the liberties of the people as their unquestionable privilege to be taxed only by their own consent.

3. Because they believe that the tariff law passed by Congress at its last session, and all other acts of which the principal object is the protection of manufacturers or any other branch of domestic industry—if they be considered as the exercise of a supposed power in Congress to tax the people at its own good will and pleasure, and to apply the money raised to objects not specified by the Constitution—is a violation of these fundamental principles, a breach of a well-defined trust, and a perversion of the high powers vested in the Federal Government for Federal purposes only.

4. Because such acts, considered in the light of a regulation of commerce, are equally liable to objection; since, although the power to regulate commerce may, like other powers, be exercised so as to protect domestic manufactures, yet it is clearly distinguished from a power to do so *eo nomine*, both in the nature of the thing and in the common acceptance of the terms; and because the confounding of them would lead to the most

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all that in them lies to preserve and perpetuate the Union of the States and the liberties of which it is the surest pledge—but feeling it to be their bounden duty to expose and to resist all encroachments upon the true spirit of the Constitution, lest an apparent acquiescence in the system of protecting duties should be drawn into precedent, do, in the name of the Commonwealth of South Carolina, claim to enter upon the journals of the Senate their protest against it as unconstitutional, oppressive, and unjust.

Senator Smith supported the protest in the following speech:

South Carolina believed that when, as a sovereign State, she surrendered a portion of her territory it was for certain and specified objects; and that, when those objects were accomplished, the authority ceded to the general Government was at an end; that any measures pursued beyond the objects first contemplated were a violation of the compact. It belonged to the States to resume the authority. South Carolina did not assent to the postulate that the authority was ever delegated to the Government, which the Government had assumed, over individuals and property composing the State. South Carolina had a deep interest in the Government. She had been as patriotic as any State in the revolutionary contest. In that struggle she furnished her full proportion of resources; she spilled her due proportion of blood; and, in point of privations, waste of property, and individual suffering, there she was without a compeer. She had been content to obey all the requisitions of the general Government, and she had done so from the reflection that her sufferings were not for the benefit of one member only, but of the whole Union. She had surrendered what, upon the consideration of wealth, would have placed her among the most opulent States in the Union had she retained it. And she had done it for no other compensation, with no other intention, with no other desire than her expectation of the protection of the general Government. After that struggle was over she was an independent sovereign; she owed no allegiance to the Government of the whole, except by the compact to pay her portion of the expenses of the war. She then surrendered to the general Government a part, the profits of which were second to few, if any, in the Union, and which, except for the present circumstances, would be second to but one in the country. All this South Carolina, perfectly informed of the objects

to be attained, was willing to yield for the sake of union, and was willing to add her strength to that of the others that she might have their strength to protect her rights. She surrendered almost everything in receiving the Constitution, and obtained nothing more from the Government than her own sovereignty already gave her. She gave up her wealth for the security of the other States. South Carolina, in yielding all this, never regretted that she did so until she found that her rights were not secured as she expected they would be. Laws were passed which restrained her citizens and discouraged her industry, and her wealth was taken and bestowed upon the citizens of other States.

During seven years of the old war it was her pride to suffer for the general good; and upon the return of peace the face of her country was indeed a dreary waste. She had risen again, but after three years of the last war she was again reduced; your embargo and your non-intercourse laws had prevented her sending out her products; she was obliged to retain them, and on the return of peace a second time she was again in poverty. News of the peace was received in February, 1815; a law imposing an extra duty for the protection of manufactures dragged on the heels of that declaration. This was yielded to under a pledge that it was only for a few years, that in a short time the manufacturers of this country would be able to compete with those of other countries; that then the people would be satisfied and the duties would be reduced. So far from this, the manufactories had increased; the prosperity of one had induced others to embark in the business, and there had been constant applications for new duties, which had been granted. South Carolina has protested against these duties, but year after year the memorials from South Carolina had slept in the archives of the Senate, if, indeed, they had ever been honored with a place there, while the committee always came in with a bill putting on additional duties.

Senator Robert Y. Hayne [S. C.] also spoke upon the protest:

One of the most unhappy circumstances connected with the present condition of the Southern States is the great, he might perhaps say the insuperable, difficulty of causing their sentiments and feelings to be made known so as to be understood and appreciated by their fellow citizens in other quarters of the Union. Viewing the United States as one country, the

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of the States and the liberties of which it is the surest pledge" that they now protest against a system which not only aims a fatal blow at the prosperity of South Carolina (dependent as she must ever continue upon agriculture and commerce), but which threatens her very existence as a State.

people of the South may almost be considered as strangers in the land of their fathers. The fruits of their industry have from the policy pursued by the Federal Government, for many years past been flowing to the North in a current as steady and undeviating as the waters of the great Gulf; and, as the sources of our prosperity are drying up, that reciprocal intercourse which had softened asperities and bound the different parts of the country together in the bonds of common sympathy and affection has, in a great measure, ceased. That close and intimate communion necessary to a full knowledge of each other no longer exists, and in its place there is springing up (it is useless to disguise the truth) among the people in opposite quarters of the Union a spirit of jealousy and distrust, founded on a settled conviction on the one part that they are the victims of injustice, and on the other that our complaints, if not groundless, may be safely disregarded.

Sir, this state of things, let me assure gentlemen, must not be suffered to continue or it will inevitably lead to the most unhappy consequences. It has become necessary, therefore—indispensably necessary—that the sentiments of our constituents should be expressed in the most deliberate and imposing form, in a manner no longer to be misunderstood or misrepresented. The legislature of South Carolina, coming directly from the people, have, at their late session, with a unanimity without example, instructed their Senators to lay this, their protest, before you. In obedience to that command, my colleague and myself here, in our places, in the presence of the representatives of the several States, and in the face of the whole American people, solemnly protest against the system of protecting duties as "unconstitutional, oppressive, and unjust." We desire that this record may bear witness for us to all future times, that we have earnestly remonstrated with our brethren against the extension of an unwarrantable jurisdiction over us; and, with full experience of the ruinous effects of the system of protecting duties, have denounced it as utterly destructive of our interests. The people of South Carolina find themselves impelled, by their attachment to the principles of the Constitution and by a proud recollection of common dangers and common triumphs, to endeavor to preserve for themselves and their posterity those rights and privileges secured to them by the great charter of our liberties and consecrated by the blood of our fathers. It is (to use the language of the protest) "because they anxiously desire to live in peace with their brethren, to do all that in them lies to preserve and perpetuate the union

CHAPTER II

THE UNION: SEPARABLE OR INSEPARABLE?

Debates in the Senate Between Robert Y. Hayne [S. C.] and Daniel Webster [Mass.] on "Consolidation" and "Nullification"—Thomas H. Benton [Mo.] Replies to Webster's Peroration.

OWING to the prospect of a modification of the tariff in Southern interests, according to the promise of President Adams, in which he was joined by other influential Northern statesmen, the threats of secession by the South quieted down and remained in abeyance.

However, in various debates, the Southern statesmen expressed their adherence to the theory of nullification. The most notable of these debates arose between Robert Y. Hayne [S. C.] and Daniel Webster [Mass.] in connection with a resolution presented in the Senate on January 19, 1830, by Samuel A. Foot [Conn.], inquiring into the expediency of suspending the sale of public lands [see Vol. X, chap. i].

This debate between Hayne and Webster is the great classic of American forensic oratory. Each section of the Union, the South and the North, was represented in the audience by its ablest statesman. Upon the conclusion of Senator Hayne's first speech on nullification (that containing his eulogy of South Carolina) the Southern statesmen and newspapers hailed the effort as one that could not be surpassed in American oratory, and which the great speeches of Burke and Chatham alone equaled in the annals of British eloquence. Senator James Iredell, of North Carolina, however, remarked that Daniel Webster was yet to be heard: "Hayne has aroused the lion; wait till we hear his roar and feel his claws."

On the evening before the day set for Webster's

reply the hotels of Washington were filled with visitors who had hurried to the capital to hear the "Lion of the North" respond to the challenge of the "Achilles of the South"—the popular epithets describing the contestants were more appropriate taken singly than in mutual relation—and early next morning crowds poured into the capitol. C. W. March, a contemporary journalist, thus describes the scene:

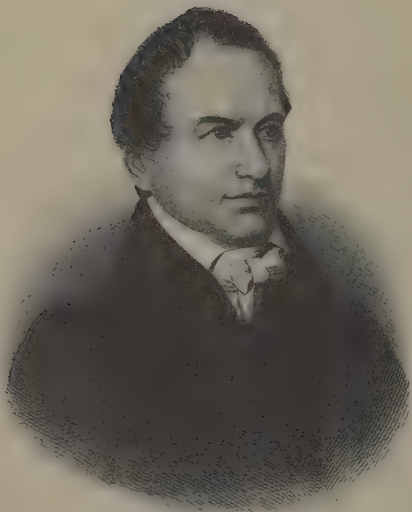
At twelve o'clock, the hour of meeting, the Senate Chamber—its galleries, floor and even lobbies—was filled to the utmost capacity. The very stairways were dark with men who hung to one another like bees in a swarm.

The House of Representatives was early deserted; an adjournment would have hardly made it emptier. The Speaker, it is true, retained his chair, but no business of moment was or could be attended to; members all rushed in to hear Mr. Webster, and no call of the House or other parliamentary proceedings could compel them back. The floor of the Senate was so densely crowded that persons once in could not get out nor change their positions. . . .

The courtesy of Senators accorded to the fair sex room on the floor—the most gallant of them their own seats. The gay bonnets and brilliant dresses threw a varied and picturesque beauty over the scene, softening and embellishing it.

Says Senator Thomas H. Benton [Mo.] in his notes of this debate in his "Debates of Congress":

Mr. Hayne deprecated the sale of the public lands for money to accumulate in the treasury as leading to corruption and consolidation. Mr. Webster argued that consolidation was not the danger, but, on the contrary, disunion, and referred to language and proceedings in South Carolina univie in their import and tending to this dire extremity. Mr. Webster formally exonerated Mr. Hayne from complicity in any of this language or conduct, but implicated others, one of whom was present, his position forbidding him to engage in senatorial discussion [Mr. Calhoun, Vice-President of the United States and President of the Senate]. The generous spirit of Mr. Hayne came to the defence of friends who could not speak for themselves and that brought on the great debate on nullification and disunion.



Rob. H. Hayne

CONSOLIDATION

SENATE, JANUARY 19-20, 1830

SENATOR HAYNE.—I distrust the policy of creating a great permanent national treasury, whether to be derived from public lands or from any other source. If I had, sir, the power of a magician, and could, by a wave of my hand, convert this Capitol into gold for such a purpose, I would not do it. If I could, by a mere act of my will, put at the disposal of the Federal Government any amount of treasure which I might think proper to name, I should limit the amount to the means necessary for the legitimate purposes of the Government. Sir, an immense national treasury would be a fund for corruption. It would enable Congress and the Executive to exercise a control over States, as well as over great interests in the country, nay, even over corporations and individuals—utterly destructive to the purity and fatal to the duration of our institutions. It would be equally fatal to the sovereignty and independence of the States. Sir, I am one of those who believe that the very life of our system is the independence of the States, and that there is no evil more to be deprecated than the consolidation of this Government. It is only by a strict adherence to the limitations imposed by the Constitution on the Federal Government that this system works well and can answer the great ends for which it was instituted. I am opposed, therefore, in any shape, to all unnecessary extension of the powers or the influence of the legislature or Executive of the Union over the States or the people of the States; and, most of all, I am opposed to those partial distributions of favors, whether by legislation or appropriation, which have a direct and powerful tendency to spread corruption through the land; to create an abject spirit of dependence; to sow the seeds of dissolution; to produce jealousy among the different portions of the Union, and finally to sap the very foundations of the Government itself.

Would it not be sound policy and true wisdom to adopt a system of measures looking to the final relinquishment of these lands on the part of the United States to the States in which they lie, on such terms and conditions as may fully indemnify us for the cost of the original purchase and all the trouble and expense to which we may have been put on their account? Giving up the plan of using these lands forever as a fund either for revenue or distribution, ceasing to hug them as a great treasure, renouncing the idea of administering them with

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a view to regulate and control the industry and population of the States, or of keeping in subjection and dependence the States, or the people of any portion of the Union, the task will be comparatively easy of striking out a plan for the final adjustment of the land question on just and equitable principles. In short, our whole policy in relation to the public lands may perhaps be summed up in the declaration that they ought not to be kept and retained forever as a great treasure, but that they should be administered chiefly with a view to the creation, within reasonable periods, of great and flourishing communities, to be formed into free and independent States; to be vested in due season with the control of all the lands within their respective limits.

Senator Webster expressed his deep regret and pain at hearing the sentiments of the Senator from South Carolina.

I am aware that these and similar opinions are espoused by certain persons out of the Capitol and out of this Government; but I did not expect so soon to find them here. Consolidation!—that perpetual cry, both of terror and delusion—consolidation! Sir, when gentlemen speak of the effects of a common fund, belonging to all the States, as having a tendency to consolidation, what do they mean? Do they mean, or can they mean, anything more than that the Union of the States will be strengthened by whatever continues or furnishes inducements to the people of the States to hold together? If they mean merely this, then, no doubt, the public lands, as well as everything else in which we have a common interest, tend to consolidation; and to this species of consolidation every true American ought to be attached; it is neither more nor less than strengthening the Union itself. This is the sense in which the framers of the Constitution use the word consolidation; and in which sense I adopt and cherish it. They tell us, in the letter submitting the Constitution to the consideration of the country, that "in all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which are involved our prosperity, felicity, safety; perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the convention to be less rigid on points of inferior magnitude than might have been otherwise expected."

This, sir, is General Washington's consolidation. This is the true constitutional consolidation. I wish to see no new powers drawn to the general Government; but I confess I rejoice in whatever tends to strengthen the bond that unites us and encourages the hope that our Union may be perpetual. And therefore I cannot but feel regret at the expression of such opinions as the gentleman has avowed; because I think their obvious tendency is to weaken the bond of our connection. I know that there are some persons in the part of the country from which the honorable member comes who habitually speak of the Union in terms of indifference or even of disparagement. The honorable member himself is not, I trust, and can never be, one of these. They significantly declare that it is time to calculate the value of the Union; and their aim seems to be to enumerate and to magnify all the evils, real and imaginary, which the Government under the Union produces.

The tendency of all these ideas and sentiments is obviously to bring the Union into discussion, as a mere question of present and temporary expediency; nothing more than a mere matter of profit and loss. The Union to be preserved, while it suits local and temporary purposes to preserve it; and to be sundered whenever it shall be found to thwart such purposes. Union, of itself, is considered by the disciples of this school as hardly a good. It is only regarded as a possible means of good; or, on the other hand, as a possible means of evil. They cherish no deep and fixed regard for it, flowing from a thorough conviction of its absolute and vital necessity to our welfare. Sir, I deprecate and deplore this tone of thinking and acting. I deem far otherwise of the Union of the States, and so did the framers of the Constitution themselves. What they said I believe; fully and sincerely believe, that the Union of the States is essential to the prosperity and safety of the States. I am a unionist, and in this sense a National Republican. I would strengthen the ties that hold us together. Far, indeed, in my wishes, very far distant be the day, when our associated and fraternal stripes shall be severed asunder, and when that happy constellation under which we have risen to so much renown shall be broken up and be seen sinking, star after star, into obscurity and night!

The debate on Mr. Foot's resolution relative to the public lands had now entirely lost its original character and become a general controversy between the North and the South, represented in the particular States of

of South Carolina—of that my constituents shall judge. If there be one State in this Union (and I say it not in a boastful spirit) that may challenge comparison with any other for a uniform, zealous, ardent, and uncalculating devotion to the Union, that State is South Carolina. Sir, from the very commencement of the Revolution up to this hour there is no sacrifice, however great, she has not cheerfully made; no service she has ever hesitated to perform. She has adhered to you in your prosperity, but in your adversity she has clung to you with more than filial affection. No matter what was the condition of her domestic affairs, though deprived of her resources, divided by parties, or surrounded by difficulties, the call of the country has been to her as the voice of God. Domestic discord ceased at the sound—every man became at once reconciled to his brethren, and the sons of Carolina were all seen crowding together to the temple, bringing their gifts to the altar of their common country. What, sir, was the conduct of the South during the Revolution? Sir, I honor New England for her conduct in that glorious struggle. But, great as is the praise which belongs to her, I think at least equal honor is due to the South. They espoused the quarrel of their brethren with a generous zeal, which did not suffer them to stop to calculate their interest in the dispute. Favorites of the mother country, possessed of neither ships nor seamen to create commercial rivalry, they might have found in their situation a guarantee that their trade would be forever fostered and protected by Great Britain. But trampling on all considerations, either of interest or of safety, they rushed into the conflict, and, fighting for principle, periled all in the sacred cause of freedom. Never were there exhibited in the history of the world higher examples of noble daring, dreadful suffering, and heroic endurance than by the Whigs of Carolina during that Revolution. The whole State, from the mountains to the sea, was overrun by an overwhelming force of the enemy. The fruits of industry perished on the spot where they were produced, or were consumed by the foe. The "plains of Carolina" drank up the most precious blood of her citizens! Black and smoking ruins marked the places which had been the habitations of her children! Driven from their homes into the gloomy and almost impenetrable swamps, even there the spirit of liberty survived, and South Carolina (sustained by the example of her Sumters and her Marions) proved by her conduct that, though her soil might be overrun, the spirit of her people was invincible.

Massachusetts and South Carolina, on the questions of nullification and disunion.

DISUNION BY NULLIFICATION

SENATE, JANUARY 25-27, 1830

SENATOR HAYNE.—The honorable gentleman from Massachusetts [Mr. Webster], while he exonerates me personally from the charge, intimates that there is a party in the country who are looking to disunion. Now, I call upon everyone who hears me to bear witness that this controversy is not of my seeking. The Senate will do me the justice to remember that, at the time this unprovoked and uncalled-for attack was made upon the South, not one word had been uttered by me in disparagement of New England, nor had I made the most distant allusion either to the Senator from Massachusetts or the State he represents. But, sir, that gentleman has thought proper, for purposes best known to himself, to strike the South through me, the most unworthy of her servants. He has crossed the border, he has invaded the State of South Carolina, is making war upon her citizens and endeavoring to overthrow her principles and her institutions. Sir, when the gentleman provokes me to such a conflict, I meet him at the threshold. I will struggle while I have life for our altars and our firesides, and, if God gives me strength, I will drive back the invader, discomfited. Nor shall I stop there. If the gentleman provokes the war, he shall have war. Sir, I will not stop at the border; I will carry the war into the enemy's territory, and not consent to lay down my arms until I shall have obtained "indemnity for the past and security for the future." It is with unfeigned reluctance that I enter upon the performance of this part of my duty. I shrink almost instinctively from a course, however necessary, which may have a tendency to excite sectional feelings and sectional jealousies. But, sir, the task has been forced upon me, and I proceed right onward to the performance of my duty; be the consequences what they may, the responsibility is with those who have imposed upon me this necessity. The Senator from Massachusetts has thought proper to cast the first stone, and if he shall find, according to a homely adage, "that he lives in a glass house," on his head be the consequences. The gentleman has made a great flourish about his fidelity to Massachusetts. I shall make no professions of zeal for the interests and honor

The Senator from Massachusetts, in denouncing what he is pleased to call the Carolina doctrine, has attempted to throw ridicule upon the idea that a State has any constitutional remedy, by the exercise of its sovereign authority, against "a gross, palpable, and deliberate violation of the Constitution." He called it "an idle" or "a ridiculous notion," or something to that effect, and added it would make the Union "a mere rope of sand." Now, sir, as the gentleman has not condescended to enter into any examination of the question, and has been satisfied with throwing the weight of his authority into the scale, I do not deem it necessary to do more than to throw into the opposite scale the authority on which South Carolina relies, and there, for the present, I am perfectly willing to leave the controversy. The South Carolina doctrine, that is to say, the doctrine contained in an exposition reported by a committee of the legislature in December, 1828, and published by their authority, is the good old Republican doctrine of '98; the doctrine of the celebrated "Virginia Resolutions" of that year, and of "Madison's Report" of '99, which deserves to last as long as the Constitution itself.¹

But, sir, our authorities do not stop here. The State of Kentucky responded to Virginia, and on the 10th of November, 1798, adopted those celebrated resolutions, well known to have been penned by the author of the Declaration of American Independence. In those resolutions the legislature of Kentucky declare "that the Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress."

Time and experience confirmed Mr. Jefferson's opinion on this all-important point. In the year 1821 he expressed himself in this emphatic manner: "It is a fatal heresy to suppose that either our State governments are superior to the Federal or the Federal to the State; neither is authorized literally to decide which belongs to itself or its co-partner in government; in differences of opinion between their different sets of public servants, the appeal is to neither, but to their employers, peaceably assembled by their representatives in convention." The opinions of Mr. Jefferson on this subject have been so repeatedly

¹ See Volume VII, chapter IV.

and so solemnly expressed that they may be said to have been the most fixed and settled convictions of his mind.

In the protest prepared by him for the legislature of Virginia, in December, 1825, in respect to the powers exercised by the Federal Government in relation to the tariff and internal improvements, which he declares to be "usurpations of the powers retained by the States, mere interpolations into the compact, and direct infractions of it," he solemnly reasserts all the principles of the Virginia resolutions of '98, protests against "these acts of the Federal branch of the Government as null and void, and declares that, although Virginia would consider a dissolution of the Union as among the greatest calamities that could befall them, yet it is not the greatest. There is one yet greater: submission to a Government of unlimited powers. It is only when the hope of this shall become absolutely desperate that further forbearance could not be indulged."

Such, sir, are the high and imposing authorities in support of the "Carolina doctrine," which is, in fact, the doctrine of the Virginia resolutions of 1798.

Sir, at that day the whole country was divided on this very question. It formed the line of demarcation between the Federal and Republican parties, and the great political revolution which then took place turned upon the very question involved in these resolutions. That question was decided by the people, and by that decision the Constitution was, in the emphatic language of Mr. Jefferson, "saved at its last gasp." Resting on authority like this, I will ask gentlemen whether South Carolina has not manifested a high regard for the Union when, under a tyranny ten times more grievous than the alien and sedition laws, she has hitherto gone no further than to petition, remonstrate, and solemnly to protest against a series of measures which she believes to be wholly unconstitutional and utterly destructive of her interests? Sir, South Carolina has not gone one step further than Mr. Jefferson himself was disposed to go, in relation to the very subject of our present complaints; not a step further than the statesmen from New England were disposed to go under similar circumstances; no further than the Senator from Massachusetts himself once considered as within "the limits of a constitutional opposition." The doctrine that it is the right of a State to judge of the violations of the Constitution on the part of the Federal Government, and to protect her citizens from the operation of unconstitutional laws, was held by the enlightened citizens of Boston who assembled in Faneuil Hall on the 25th January, 1809. They

bound to submit to the decision, and are not to be allowed to examine and decide for themselves, when the barriers of the Constitution shall be overleaped, this is practically "a Government without limitation of powers." The States are at once reduced to mere petty corporations and the people are entirely at your mercy. I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional laws which Congress has extended over them, she has kept steadily in view the preservation of the Union by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation. The measures of the Federal Government, have, it is true, prostrated her interests and will soon involve the whole South in irretrievable ruin. But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest—a principle which, substituting the discretion of Congress for the limitations of the Constitution, brings the States and the people to the feet of the Federal Government and leaves them nothing that they can call their own. Sir, if the measures of the Federal Government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorized taxation. These, sir, are the principles which induced the immortal Hampden to resist the payment of a tax of twenty shillings. Would twenty shillings have ruined his fortune? No; but the payment of half twenty shillings, on the principle on which it was demanded, would have made him a slave. Sir, if, in acting on these high motives, if, animated by that ardent love of liberty which has always been the most prominent trait in the Southern character, we should be hurried beyond the bounds of a cold and calculating prudence, who is there with one noble and generous sentiment in his bosom that would not be disposed, in the language of Burke, to exclaim: "You must pardon something to the spirit of liberty!"

SENATOR WEBSTER said: In carrying his warfare, such as it was, into New England, the honorable gentleman all along professes to be acting on the defensive. He elects to consider me as having assailed South Carolina, and insists that he comes forth only as her champion and in her defence. Sir, I do not admit that I made any attack whatever on South Carolina. If he means that I spoke with dissatisfaction or disrespect of the ebullitions of individuals in South Carolina, it is true. But if he means that I had assailed the character of the State, her honor or patriotism, that I had reflected on her

state, in that celebrated memorial, that "they looked only to the State legislature, who were competent to devise relief against the unconstitutional acts of the general Government. That your power [say they] is adequate to that object is evident from the organization of the confederacy."

A distinguished Senator from one of the New England States [Mr. Hillhouse], in a speech delivered here on a bill for enforcing the embargo, declared: "I feel myself bound in conscience to declare, lest the blood of those who shall fall in the execution of this measure shall be on my head, that I consider this to be an act which directs a mortal blow at the liberties of my country; an act containing unconstitutional provisions, to which the people are not bound to submit, and to which, in my opinion, they will not submit."

And the Senator from Massachusetts himself, in a speech delivered on the same subject in the other House, said: "This opposition is constitutional and legal; it is also conscientious. It rests on settled and sober conviction that such policy is destructive to the interests of the people and dangerous to the being of the Government. The experience of every day confirms these sentiments. Men who act from such motives are not to be discouraged by trifling obstacles nor awed by any dangers. They know the limit of constitutional opposition; up to that limit, at their own discretion, they will walk, and walk fearlessly." How "the being of the Government" was to be endangered by "constitutional opposition to the embargo" I leave to the gentleman to explain.

Thus it will be seen, said Mr. H., that the South Carolina doctrine is the Republican doctrine of '98; that it was first promulgated by the fathers of the faith; that it was maintained by Virginia and Kentucky in the worst of times; that it constituted the very pivot on which the political revolution of that day turned; that it embraces the very principles the triumph of which at that time saved the Constitution at its last gasp, and which New England statesmen were not unwilling to adopt when they believed themselves to be the victims of unconstitutional legislation. Sir, as to the doctrine that the Federal Government is the exclusive judge of the extent, as well as the limitations, of its powers, it seems to me to be utterly subversive of the sovereignty and independence of the States. It makes but little difference, in my estimation, whether Congress or the Supreme Court are invested with this power. If the Federal Government, in all or any of its departments, is to prescribe the limits of its own authority, and the States are

history or her conduct, he had not the slightest ground for any such assumption. I spoke in the most guarded and careful manner, and only expressed my regret for the publication of opinions which I presumed the honorable member disapproved as much as myself. In this it seems I was mistaken. I do not remember that the gentleman has disclaimed any sentiment or any opinion of a supposed anti-union tendency which on all or any of the recent occasions has been expressed. The whole drift of his speech has been rather to prove that, in divers times and manners, sentiments equally liable to my objection have been promulgated in New England. And one would suppose that his object, in this reference to Massachusetts, was to find a precedent to justify proceedings in the South, were it not for the reproach and contumely with which he labors, all along, to load these, his own chosen precedents. By way of defending South Carolina from what he chooses to think an attack on her, he first quotes the example of Massachusetts, and then denounces that example in good set terms.

Before I proceed further let me observe that the eulogium pronounced on the character of the State of South Carolina by the honorable gentlemen, for her revolutionary and other merits, meets my hearty concurrence. I shall not acknowledge that the honorable member goes before me in regard for whatever of distinguished talent or distinguished character South Carolina has produced. I claim part of the honor, I partake in the pride of her great names. I claim them for countrymen, one and all. The Laurenses, the Rutledges, the Pinckneys, the Sumters, the Marions—Americans all—whose fame is no more to be hemmed in by State lines than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him whose honored name the gentleman himself bears—does he suppose me less capable of gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light in Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name so bright as to produce envy in my bosom? No, sir; increased gratification and delight, rather. Sir, I thank God that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit, which would drag angels down. When I shall be found, sir, in my place, here in the Senate or elsewhere, to sneer at public merit because it

happened to spring up beyond the little limits of my own State or neighborhood; when I refuse, for any such cause, or for any cause, the homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or if I see an uncommon endowment of Heaven—if I see extraordinary capacity and virtue in any son of the South—and if, moved by local prejudice or gangrened by State jealousy, I get up here to abate the tithe of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

Sir, let me recur to pleasing recollections; let me indulge in refreshing remembrances of the past; let me remind you that, in early times, no States cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God that harmony might again return! Shoulder to shoulder they went through the Revolution—hand in hand they stood round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation and distrust, are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

I shall enter on no encomiums upon Massachusetts; she needs none. There she is; behold her, and judge for yourselves. There is her history; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill; and there they will remain forever. The bones of her sons, fallen in the great struggle for independence, now lie mingled with the soil of every State, from New England to Georgia; and there they will lie forever. And, sir, where American liberty raised its infant voice, and where its youth was nurtured and sustained, there it still lives, in the strength of its manhood and full of its original spirit. If discord and disunion shall wound it; if party strife and blind ambition shall hawk at and tear it; if folly and madness; if uneasiness, under salutary and necessary restraint, shall succeed to separate it from that Union by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was rocked; it will stretch forth its arm, with whatever of vigor it may still retain, over the friends who may gather round it; and it will fall at last, if fall it must, amid the proudest monuments of its own glory and on the very spot of its origin.

There yet remains to be performed, said Mr. W., by far the most grave and important duty which I feel to be devolved on me by this occasion. It is to state, and to defend, what I

conceive to be the true principles of the Constitution, under which we are here assembled.

I understand the honorable gentleman from South Carolina to maintain that it is a right of the State legislatures to interfere whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing under the Constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the general Government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general Government or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general Government transcends its power.

I understand him to insist that, if the exigency of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the general Government which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. I propose to consider it and to compare it with the Constitution.

Mr. Hayne here rose, and said that, for the purpose of being clearly understood, he would state that his proposition was in the words of the Virginia resolution:

"That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them."

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Mr. WEBSTER resumed: As the gentleman construes it, the resolution is an authority for him. Possibly he may not have adopted the right construction. That resolution declares that, in the case of the dangerous exercise of powers not granted to the general Government, the States may interpose to arrest the progress of the evil. But how interpose, and what does this declaration purport? Does it mean no more than that there may be extreme cases, in which the people, in any code of assembling, may resist usurpation and relieve themselves from a tyrannical Government? No one will deny this. Such resistance is not only acknowledged to be just in America, but in England also. Blackstone admits as much in his theory and practice, too, of the English constitution. We, sir, who oppose the Carolina doctrine, do not deny that the people may, if they choose, throw off any government when it becomes oppressive and intolerable, and erect a better in its stead. We all know that civil institutions are established for the public benefit, and that, when they cease to answer the ends of their existence, they may be changed. But I do not understand the doctrine now contended for to be that which, for the sake of distinctness, we may call the right of revolution. I understand the gentleman to maintain that, without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the general Government lies in a direct appeal to the interference of the State governments. [Mr. Hayne here rose: He did not contend, he said, for the mere right of revolution, but for the right of constitutional resistance. What he maintained was that, in case of plain, palpable violation of the Constitution by the general Government a State may interpose; and that this interposition is constitutional.] Mr. W. resumed: So, sir, I understood the gentleman, and am happy to find that I did not misunderstand him. What he contends for is that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their Government I do not deny; and they have another right, and that is to resist unconstitutional laws, without overturning the Government. The great question is, whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that the main debate hinges. The proposition that, in case of a supposed violation of the Constitution by Congress, the States have a constitutional right to interfere and

annul the law of Congress is the proposition of the gentleman. I do not admit it. If the gentleman had intended no more than to assert the right of revolution, for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution, or rebellion, on the other. I say the right of a State to annul a law of Congress cannot be maintained but on the ground of the inalienable right of man to resist oppression; that is to say upon the ground of revolution. I admit that there is an ultimate violent remedy, above the Constitution, and in defiance of the Constitution, which may be resorted to when a revolution is to be justified. But I do not admit that, under the Constitution and in conformity with it, there is any mode in which a State Government, as a member of the Union, can interfere and stop the progress of the general Government by force of her own laws under any circumstances whatever.

This leads us to inquire into the origin of this Government and the source of its power. Whose agent is it? Is it the creature of the State legislature or the creature of the people? If the Government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify or reform it. It is observable enough that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining not only that this general Government is the creature of the States, but that it is the creature of each of the States severally; so that each may assert the power for itself of determining whether it acts within the limits of its authority. It is the servant of four and twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this Government in its true character. It is, sir, the people's Constitution, the people's Government; made for the people; made by the people; and answerable to the people.² The people of the United States have declared that this Constitution shall be the supreme law. We must either admit the proposition or dispute their authority. The States are unquestionably sovereign, so far as their sov-

² This is one of the many "original" sources of Lincoln's characterization of the American Government as "of the people, for the people, by the people."

ereignty is not affected by this supreme law. But the State legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the general Government, so far the grant is unquestionably good, and the Government holds of the people, and not of the State governments. We are all agents of the same supreme power, the people. The general Government and the State governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted and the other general and residuary. The National Government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State governments or to the people themselves. So far as the people have restrained State sovereignty, by the expression of their will, in the Constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther. The sentiment to which I have referred propounds that State sovereignty is to be controlled only by its own "feeling of justice"; that is to say, that it is not to be controlled at all: for one who is to follow his own feelings is under no legal control. Now, however men may think this ought to be, the fact is that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the Constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the Constitution declares that no State shall make war. To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again, the Constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." Such an opinion, therefore, is in defiance of the plainest provisions of the Constitution.

There are other proceedings of public bodies which have already been alluded to, and to which I refer again for the purpose of ascertaining more fully what is the length and breadth of that doctrine, denominated the Carolina doctrine, which the honorable gentleman has now stood upon this floor to maintain. In one of them I find it resolved that "the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of others, is contrary to the meaning

and intention of the Federal compact; and, as such, a dangerous, palpable, and deliberate usurpation of power by a determined majority, wielding the general Government beyond the limits of its delegated powers, as calls upon the States which compose the suffering minority, in their sovereign capacity, to exercise the powers which, as sovereigns, necessarily devolve upon them when their compact is violated."

Observe, sir, that this resolution holds the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of another, to be such a dangerous, palpable, and deliberate usurpation of power as calls upon the States, in their sovereign capacity, to interfere by their own authority. This denunciation, you will please to observe, includes our old tariff of 1816, as well as all others; because that was established to promote the interest of the manufacturers of cotton, to the manifest and admitted injury of the Calcutta cotton trade. Observe again that all the qualifications are here rehearsed and charged upon the tariff, which are necessary to bring the case within the gentleman's proposition. The tariff is a usurpation; it is a dangerous usurpation; it is a palpable usurpation; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the States to exercise their right of interference. Here is a case, then, within the gentleman's principles, and all his qualifications of his principles. It is a case for action. The Constitution is plainly, dangerously, palpably, and deliberately violated; and the States must interpose their own authority to arrest the law. Let us suppose the State of South Carolina to express the same opinion by the voice of her legislature. That would be very imposing; but what then? Is the voice of one State conclusive? It so happens that, at the very moment when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. They hold those laws to be both highly proper and strictly constitutional. And now, sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it and refuse to pay the duties. In Pennsylvania it is both clearly constitutional and highly expedient; and there the duties are to be paid. And yet we live under a Government of uniform laws, and under a Constitution, too, which contains an express provision, as it hap-

pens, that all duties shall be equal in all the States! Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again precisely upon the old confederation?

It is too plain to be argued. Four and twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind anybody else, and this constitutional law the only bond of their union! What is such a state of things but a mere connection during pleasure; or, to use the phraseology of the times, during feeling? And that feeling, too, not the feeling of the people who established the Constitution, but the feeling of the State governments.

In another of the South Carolina addresses, having premised that the crisis requires "all the concentrated energy of passion," an attitude of open resistance to the laws of the Union is advised. Open resistance to the laws, then, is the constitutional remedy, the conservative power of the State, which the South Carolina doctrines teach for the redress of political evils, real or imaginary. And its authors further say that, appealing with confidence to the Constitution itself, to justify their opinions, they cannot consent to try their accuracy by the courts of justice. In one sense, indeed, sir, said Mr. W., this is assuming an attitude of open resistance in favor of liberty. But what sort of liberty? The liberty of establishing their own opinions, in defiance of the opinions of all others; the liberty of judging and deciding exclusively themselves, in a matter in which others have as much right to judge and decide as they; the liberty of placing their own opinions above the judgment of all others, above the laws, and above the Constitution. This is their liberty, and this is the fair result of the proposition contended for by the honorable gentleman. Or, it may be more properly said, it is identical with it rather than a result from it.

In the same publication we find the following: "Previously to our Revolution, when the arm of oppression was stretched over New England, where did our Northern brethren meet with a braver sympathy than that which sprung from the bosoms of Carolinians? We had no extortion, no oppression, no collision with the king's ministers, no navigation interests springing up in envious rivalry of England."

This seems extraordinary language. South Carolina no collision with the King's ministers in 1775! No extortion! No

oppression! But, sir, it is also most significant language. Does any man doubt the purpose for which it was penned? Can anyone fail to see that it was designed to raise in the reader's mind the question whether, at this time—that is to say, in 1828, South Carolina has any collision with the King's ministers, any oppression or extortion, to fear from England? Whether, in short, England is not as naturally the friend of South Carolina as New England, with her navigation interests springing up in envious rivalry of England?

Is it not strange, sir, that an intelligent man in South Carolina in 1828 should thus labor to prove that, in 1775, there was no hostility, no cause of war between South Carolina and England? That she had no occasion, in reference to her own interest, or from a regard to her own welfare, to take up arms in the revolutionary contest? Can anyone account for the expression of such strange sentiments, and their circulation through the State, otherwise than by supposing the object to be, what I have already intimated, to raise the question, if they had no "collision" (mark the expression) with the ministers of King George the Third in 1775, what collision have they in 1828 with the ministers of King George the Fourth? What is there now, in the existing state of things, to separate Carolina from Old, more, or rather, than from New England?

And now, sir, what I have first to say on this subject is that at no time and under no circumstances has New England, or any State in New England, or any respectable body of persons in New England, or any public man of standing in New England, put forth such a doctrine as this Carolina doctrine.

The gentleman has found no case, he can find none, to support his own opinions by New England authority. New England has studied the Constitution in other schools and under other teachers. She looks upon it with other regards, and deems more highly and reverently both of its authority and its utility and excellence. The history of her legislative proceedings may be traced; the ephemeral effusions of temporary bodies, called together by the excitement of the occasion, may be hunted up—they have been hunted up. The opinions and votes of her public men, in and out of Congress, may be explored; it will all be in vain. The Carolina doctrine can derive from her neither countenance nor support. She rejects it now; she always did reject it; and till she loses her senses she always will reject it. The honorable member has referred to expressions on the subject of the embargo law made in this place by an honorable and venerable gentleman [Mr. Hillhouse], now favoring us with

his presence. He quotes that distinguished Senator as saying that, in his judgment, the embargo law was unconstitutional, and that, therefore, in his opinion, the people were not bound to obey it. That, sir, is perfectly constitutional language. An unconstitutional law is not binding; but then it does not rest with a resolution, or a law of a State legislature, to decide whether an act of Congress be or be not constitutional. Who did the venerable Connecticut Senator suppose was to decide that question? The State legislatures? Certainly not. No such sentiment ever escaped his lips. Let us follow up, sir, this New England opposition to the embargo laws; let us trace it till we discern the principle which controlled and governed New England throughout the whole course of that opposition. We shall then see what similarity there is between the New England school of constitutional opinions and this modern Carolina school. The gentleman, I think, read a petition from some single individual, addressed to the legislature of Massachusetts, asserting the Carolina doctrine—that is, the right of State interference to arrest the laws of the Union. The fate of that petition shows the sentiments of the legislature. It met no favor. The opinions of Massachusetts were otherwise. They had been expressed in 1798, in answer to the resolutions of Virginia, and she did not depart from them, nor bend them to the times. Misgoverned, wronged, oppressed, as she felt herself to be, she still held fast her integrity to the Union. The gentleman may find in her proceedings much evidence of dissatisfaction with the measures of the Government, and great and deep dislike to the embargo; all this makes the case so much the stronger for her: for, notwithstanding all this dissatisfaction and dislike, she claimed no right still to sever asunder the bonds of the Union. There was heat and there was anger in her political feelings. Be it so; her heat or her anger did not, nevertheless, betray her into infidelity to the Government. The gentleman labors to prove that she disliked the embargo as much as South Carolina dislikes the tariff, and expressed her dislike as strongly. Be it so; but did she propose the Carolina remedy? Did she threaten to interfere by State authority to annul the laws of the Union? That is the question for the gentleman's consideration.

Let me here say, sir, that if the gentleman's doctrine had been received and acted upon in New England in the times of the embargo and non-intercourse we should probably not now have been here. The Government would, very likely, have gone to pieces and crumbled into dust. No stronger case can

ever arise than existed under those laws; no States can ever entertain a clearer conviction than the New England States then entertained; and if they had been under the influence of that heresy of opinion, as I must call it, which the honorable member espouses, this Union would, in all probability, have been scattered to the four winds. I ask the gentleman, therefore, to apply his principles to that case; I ask him to come forth and declare whether, in his opinion, the New England States would have been justified in interfering to break up the embargo system under the conscientious opinions which they held upon it? Had they a right to annul that law? Does he admit or deny? If that which is thought palpably unconstitutional in South Carolina justifies that State in arresting the progress of the law, tell me whether that which was thought palpably unconstitutional also in Massachusetts would have justified her in doing the same thing? Sir, I deny the whole doctrine. It has not a foot of ground in the Constitution to stand on. No public man of reputation ever advanced it in Massachusetts in the warmest times, or could maintain himself upon it there at any time.

I wish now, sir, to make a remark upon the Virginia resolutions of 1798. I cannot undertake to say how these resolutions were understood by those who passed them. Their language is not a little indefinite. In the case of the exercise, by Congress, of a dangerous power, not granted to them, the resolutions assert the right, on the part of the State, to interfere and arrest the progress of the evil. This is susceptible of more than one interpretation. It may mean no more than that the States may interfere by complaint and remonstrance; or by proposing to the people an alteration of the Federal constitution. This would all be quite unobjectionable; or it may be that no more is meant than to assert the general right of revolution, as against all governments, in cases of intolerable oppression. This no one doubts; and this, in my opinion, is all that he who framed the resolutions could have meant by it: for I shall not readily believe that he was ever of opinion that a State, under the Constitution and in conformity with it, could, upon the ground of her own opinion of its unconstitutionality, however clear and palpable she might think the case, annul a law of Congress, so far as it should operate on herself, by her own legislative power.

I must now beg to ask, sir, whence is this supposed right of the States derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the

honorable gentleman maintains is a notion founded on a total misapprehension, in my judgment, of the origin of this Government, and of the foundation on which it stands. I hold it to be a popular Government, erected by the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State governments. It is created for one purpose; the State governments for another. It has its own powers; they have theirs. There is no more authority with them to arrest the operation of a law of Congress than with Congress to arrest the operation of their laws. We are here to administer a Constitution emanating immediately from the people, and trusted, by them, to our administration. It is not the creature of the State governments. It is of no moment to the argument that certain acts of the State legislatures are necessary to fill our seats in this body. That is not one of their original State powers—a part of the sovereignty of the State. It is a duty which the people, by the Constitution itself, have imposed on the State legislatures; and which they might have left to be performed elsewhere if they had seen fit. So they have left the choice of President with electors; but all this does not affect the proposition that this whole Government—President, Senate, and House of Representatives—is a popular Government. It leaves it still all its popular character. The governor of a State (in some of the States) is chosen, not directly by the people, but by those who are chosen by the people for the purpose of performing, among other duties, that of electing a governor. Is the government of a State, on that account, not a popular government? This Government, sir, is the independent offspring of the popular will. It is not the creature of State legislatures. Nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it for the very purpose, among others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this Constitution, sir, be the creature of State legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, sir, erected this Government. They gave it a Constitution; and in that Constitution they have enumerated the powers which they bestow on it. They have made it

a limited Government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or to the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid possibility of doubt; no limitation so precise as to exclude all uncertainty. Who, then, shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the Government? Sir, they have settled all this in the fullest manner. They have left it with the Government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole Constitution was framed and adopted, was to establish a Government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of Government under the confederacy. Under that system the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only recommend; their acts were not of binding force till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion and State construction? Sir, if we are, then vain will be our attempt to maintain the Constitution under which we sit. But, sir, the people have wisely provided, in the Constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are in the Constitution grants of powers to Congress and restrictions on these powers. There are also prohibitions on the States. Some authority must, therefore, necessarily exist having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The Constitution has itself pointed out, ordained, and established that authority. How has it accomplished this great and essential end? By declaring, sir, that "the Constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding."

This, sir, was the first great step. By this the supremacy of the Constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the Constitution or any law of the United States. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the Constitution itself

decides also by declaring "that the judicial power shall extend to all cases arising under the Constitution and laws of the United States." These two provisions, sir, cover the whole ground. They are, in truth, the keystone of the arch. With these it is a Constitution; without them it is a confederacy. In pursuance of these clear and express provisions, Congress established, at its very first session, in the judicial act, a mode for carrying them into full effect and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a government. It then had the means of self-protection; and, but for this, it would, in all probability, have been now among things which are past. Having constituted the Government and declared its powers, the people have further said that, since somebody must decide on the extent of these powers, the Government shall itself decide; subject, always, like other popular Governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State legislature acquires any power to interfere? Who or what gives them the right to say to the people: "We, who are your agents and servants for one purpose, will undertake to decide that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them?" The reply would be, I think, not impertinent: "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State legislatures altogether. It cannot stand the test of examination. Gentlemen may say that, in an extreme case, a State government might protect the people from intolerable oppression. Sir, in such a case, the people might protect themselves, without the aid of the State governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State legislature cannot alter the case nor make resistance any more lawful. In maintaining these sentiments, sir, I am but asserting the rights of the people. I state what they have declared, and insist on their right to declare it. They have chosen to repose this power in the general Government, and I think it my duty to support it, like other constitutional powers.

For myself, sir, I do not admit the jurisdiction of South Carolina, or any other State, to prescribe my constitutional duty, or to settle, between me and the people, the validity of laws of Congress for which I have voted. I decline her umpirage. I have not sworn to support the Constitution according to her construction of its clauses. I have not stipulated, by my

oath of office or otherwise, to come under any responsibility except to the people and those whom they have appointed to pass upon the question, whether laws, supported by my votes, conform to the Constitution of the country. And, sir, if we look to the general nature of the case, could anything have been more preposterous than to make a government for the whole Union and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four and twenty popular bodies, each at liberty to decide for itself and none bound to respect the decisions of others; and each at liberty, too, to give a new construction on every new election of its own members? Would anything with such a principle in it, or rather with such a destitution of all principle, be fit to be called a government? No, sir. It should not be denominated a constitution. It should be called, rather, a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good nor fit for any country to live under. To avoid all possibility of being misunderstood, allow me to repeat again, in the fullest manner, that I claim no powers for the Government by forced or unfair construction. I admit that it is a Government of strictly limited powers, of enumerated, specified, and particularized powers; and that whatsoever is not granted is withheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt; and the general Government would be good for nothing, it would be incapable of long existing, if some mode had not been provided in which these doubts, as they should arise, might be peaceably, but authoritatively, solved.

And now let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable *modus operandi*. If a thing can be done, an ingenious man can tell how it is to be done. Now, I wish to be informed how this State interference is to be put in practice without violence, bloodshed, and rebellion. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it (as we probably shall not), she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her legislature, declaring the several acts of Congress, usually called the tariff laws, null and void, so far as they respect South Carolina, or the citizens

thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston is collecting the duties imposed by these tariff laws; he, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The State authorities will undertake their rescue: the marshal, with his *posse*, will come to the collector's aid, and here the contest begins. The militia of the State will be called out to sustain the nullifying act. They will march, sir, under a very gallant leader; for I believe the honorable member himself commands the militia of that part of the State. He will raise the nullifying act on his standard, and spread it out as his banner! It will have a preamble, bearing, that the tariff laws are palpable, deliberate, and dangerous violations of the Constitution! He will proceed, with this banner flying, to the custom-house in Charleston:

"All the while,
"Sonorous metal blowing martial sounds."

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, sir, the collector would, probably, not desist at his bidding. Here would ensue a pause: for they say that a certain stillness precedes the tempest. Before this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it would request, of their gallant commander-in-chief, to be informed a little upon the point of law: for they have, doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the Constitution, as well as Turenne and Vauban. They would ask him, therefore, something concerning their rights in this matter. They would inquire whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if, by military force and array, resisted the execution, in Carolina, of a law of the United States, and it should turn out, after all, that the law was constitutional? He would answer, of course, treason. No lawyer could give any other answer. John Fries, he would tell them, had learned that some years ago. How, then, they would ask, do you propose to defend us? We are not afraid of bullets; but treason has a way of taking people off that we do not much relish. How do you propose to defend us? "Look at my float-

ing banner," he would reply; "see there the nullifying law!" Is it your opinion, gallant commander, they would then say, that if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? "South Carolina is a sovereign State," he would reply. That is true; but would the judge admit our plea? "These tariff laws," he would repeat, "are unconstitutional, palpably, deliberately, dangerously." That all may be so; but, if the tribunals should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax, worse than any part of the tariff. The honorable gentleman would be in a dilemma like that of another great general; he would have a knot before him which he could not untie. He must cut it with his sword; he must say to his followers, Defend yourselves with your bayonets!—and this is war—civil war.

Direct collision, therefore, between force and force is the unavoidable result of that remedy for the revision of unconstitutional laws which the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist, by force, the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying, that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the Government. They lead directly to disunion and civil commotion; and therefore it is, that, at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my public protest against them all.

The honorable gentleman argues that, if this Government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this matter, if left to the exercise of State legislatures, has any tendency to subvert the Government of the Union. The gentleman's opinion may be that the right ought not to have been lodged with the general Government; he may like better such a constitution as we should have under the right of

State interference; but I ask him to meet me on the plain matter of fact; I ask him to meet me on the Constitution itself; I ask him if the power is not found there, clearly and visibly found there?

But, sir, what is this danger, and what the grounds of it? Let it be remembered that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people, who established it, shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power between the State governments and the general Government, they can alter that distribution at will.

If anything be found in the national Constitution, either by original provision, or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction be established, unacceptable to them, so as to become, practically, a part of the Constitution, they will amend it at their own sovereign pleasure. But while the people choose to maintain it as it is; while they are satisfied with it, and refuse to change it, who has given, or who can give, to the State legislatures, a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do anything for themselves; they imagine there is no safety for them any longer than they are under the close guardianship of the State legislatures. Sir, the people have not trusted their safety, in regard to the general Constitution, to those hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the Government itself, in doubtful cases, should put on its own powers, under their oaths of office, and subject to their responsibility to them; just as the people of a State trust their own State governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents, whenever they see cause. Thirdly, they have reposed their trust in the judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And finally the people of the United States have, at no time, in no way, directly or indirectly,

authorized any State legislature to construe or interpret their high instrument of government; much less to interfere, by their own power, to arrest its course and operation.

If, sir, the people, in these respects, had done otherwise than they have done, their Constitution could neither have been preserved, nor would it have been worth preserving. And, if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless as being as its enemies, whether early or more recent, could possibly desire. It will exist, in every State, but as a poor dependent on State permission. It must borrow leave to be; and will be no longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

But, sir, although there are fears, there are hopes, also. The people have preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, nullified, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve, and wisely to administer it.

I cannot persuade myself to relinquish this subject without expressing once more my deep conviction that, since it respects nothing less than the union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career hitherto to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influence these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and, although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness. I have not allowed myself, sir, to look beyond the Union, to see what might lie hid-

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den in the dark recess behind. I have not coolly weighed the chances of preserving liberty, when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counselor, in the affairs of this Government, whose thoughts should be mainly bent on considering, not how the Union should be best preserved, but how tolerable might be the condition of the people, when it shall be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects spread out before us for us and our children. Beyond that, I seek not to penetrate the veil. God grant that, in my day, at least, that curtain may not rise. God grant that, on my vision, never may be opened what lies behind. When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance, rather, behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as, What is all this worth? Nor those other words of delusion and folly, Liberty first and Union afterward; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and forever, one and inseparable!

SENATOR HAYNE.—It has been asked, why not compel a State, objecting to the constitutionality of a law, to appeal to her sister States, by a proposition to amend the Constitution? I answer, because such a course would, in the first instance, admit the exercise of an unconstitutional authority, which the States are not bound to submit to, even for a day, and because it would be absurd to suppose that any redress could ever be obtained by such an appeal, even if a State were at liberty to make it. If a majority of both Houses and Congress should, from any motive, be induced, deliberately, to exercise "powers not granted," what prospect would there be of "arresting the progress of the evil," by a vote of three-fourths? But the Constitution does not permit a minority to submit to the people a

proposition for an amendment to the Constitution. Such a proposition can come only from "two-thirds of the two Houses of Congress, or the legislatures of two-thirds of the States." It will be seen, therefore, at once, that a minority, whose constitutional rights are violated, can have no redress by an amendment of the Constitution. When any State is brought into direct collision with the Federal Government, in case of an attempt, by the latter, to exercise unconstitutional powers, the appeal must be made by Congress (the party proposing to exert the disputed power), in order to have it expressly conferred, and, until so conferred, the exercise of such authority must be suspended. Even in cases of doubt such an appeal is due to the peace and harmony of the Government. On this subject our present Chief Magistrate, in his opening message to Congress, says: "I regard an appeal to the source of power, in cases of real doubt, and where its exercise is deemed indispensable to the general welfare, as among the most sacred of all our obligations. Upon this country, more than any other, has, in the providence of God, been cast the especial guardianship of the great principle of adherence to written constitutions. If it fail here, all hope in regard to it will be extinguished. That this was intended to be a Government of limited and specific, and not general, powers must be admitted by all; and it is our duty to preserve for it the character intended by its framers. The scheme has worked well. It has exceeded the hopes of those who devised it, and become an object of admiration to the world. Nothing is clearer, in my view, than that we are chiefly indebted for the success of the Constitution under which we are now acting to the watchful and auxiliary operation of the State authorities. This is not the reflection of a day, but belongs to the most deeply rooted convictions of my mind. I cannot, therefore, too strongly or too earnestly, for my own sense of its importance, warn you against all encroachments upon the legitimate sphere of State sovereignty. Sustained by its healthful and invigorating influence, the Federal system can never fall."

But the gentleman apprehends that this will "make the Union a rope of sand." Sir, I have shown that it is a power indispensably necessary to the preservation of the constitutional rights of the States and of the people. I now proceed to show that it is perfectly safe, and will practically have no effect but to keep the Federal Government within the limits of the Constitution, and prevent those unwarrantable assumptions of power, which cannot fail to impair the rights of the States, and

finally destroy the Union itself. This is a Government of checks and balances. All free governments must be so. The whole organization and regulation of every department of the Federal as well as of the State governments establish, beyond a doubt, that it was the first object of the great fathers of our Federal system to interpose effectual checks to prevent that over-action which is the besetting sin of all governments, and which has been the great enemy to freedom over all the world.

In the Kentucky resolutions of '98 it is explicitly declared "that the several States which formed the Constitution, being sovereign and independent, have the unquestionable right to judge of its infractions, and that a nullification by those sovereignties of all unauthorized acts done under color of that instrument is the rightful remedy."

But the gentleman says this right will be dangerous. Sir, I insist that, of all the checks that have been provided by the Constitution, this is by far the safest and the least liable to abuse. It is admitted by the gentleman that the Supreme Court may declare a law to be unconstitutional and check your further progress. Now, the Supreme Court consists of only seven judges; four are a quorum, three of whom are a majority, and may exercise this mighty power. Now, the judges of this court are without any direct responsibility, in matters of opinion, and may certainly be governed by any of the motives which it is supposed will influence a State in opposing the acts of the Federal Government. Sir, it is not my desire to excite prejudice against the Supreme Court. I not only entertain the highest respect for the individuals who compose that tribunal, but I believe they have rendered important services to the country; and that, confined within their appropriate sphere (the decision of questions "of law and equity"), they will constitute a fountain from which will forever flow the streams of pure and undefiled justice, diffusing blessings throughout the land. I object only to the assumption of political power by the Supreme Court—a power which belongs not to them, and which they cannot safely exercise. But, surely, a power which the gentleman is willing to confide to three judges of the Supreme Court may safely be intrusted to a sovereign State. Sir, there are so many powerful motives to restrain a State from taking such high ground as to interpose her sovereign power to protect her citizens from unconstitutional laws, that the danger is not that this power will be wantonly exercised, but that she will fail to exert it, even on proper occasions.

A State will be restrained by a sincere love of the Union.

should differ in opinion from the Court? What, then, would be the effect of such a decision? And what would be the remedy in such a case? Congress would be arrested in the exercise of the disputed power, and the only remedy would be an appeal to the creating power, three-fourths of the States, for an amendment of the Constitution. And by whom must such an appeal be made? It must be made by the party proposing to exercise the disputed power. Now I will ask whether a sovereign State may not be safely intrusted with the exercise of a power, operating merely as a check, which is admitted to belong to the Supreme Court, and which may be exercised every day, by any three of its members? Sir, no ideas that can be formed of arbitrary power on the one hand, and abject dependence on the other, can be carried further than to suppose that three individuals, mere men, "subject to like passions with ourselves," may be safely intrusted with the power to nullify an act of Congress, because they conceive it to be unconstitutional; but that a sovereign and independent State is bound, implicitly, to submit to its operation, even where it violates, in the grossest manner, her own rights or the liberties of her citizens. But we do not contend that a common case would justify the interposition.

This is "the extreme medicine of the State," and cannot become our daily bread.

The gentleman has called upon us to carry out our scheme practically. Now, sir, if I am correct in my view of this matter, then it follows, of course, that, the right of a State being established, the Federal Government is bound to acquiesce in a solemn decision of a State, acting in its sovereign capacity, at least so far as to make an appeal to the people for an amendment to the Constitution. This solemn decision of a State (made either through its legislature, or a convention, as may be supposed to be the proper organ of its sovereign will—a point I do not propose now to discuss) binds the Federal Government, under the highest constitutional obligation, not to resort to any means of coercion against the citizens of the dissenting State. How, then, can any collision ensue between the Federal and State governments, unless, indeed, the former should determine to enforce the law by unconstitutional means? What could the Federal Government do in such a case? Resort, says the gentleman, to the courts of justice. Now, can any man believe that, in the face of a solemn decision of a State, an act of Congress is "a gross, palpable, and deliberate violation of the Constitution," and that, if the State interposed its sovereign authority

The people of the United States cherish a devotion to the Union, so pure, so ardent, that nothing short of intolerable oppression can ever tempt them to do anything that may possibly endanger it. Sir, there exists, moreover, a deep and settled conviction of the benefits which result from a close connection of all the States for purposes of mutual protection and defence. This will coöperate with the feelings of patriotism to induce a State to avoid any measures calculated to endanger that connection. A State will always feel the necessity of consulting public opinion, both at home and abroad, before she resorts to any measures of such a character. She will know that, if she acts rashly, she will be abandoned even by her own citizens, and will utterly fail in the object she has in view. If, as is asserted in the Declaration of Independence, all experience has proved that mankind are more disposed to suffer, while evils are sufferable, than to resort to measures for redress why should this case be an exception, where so many additional motives must always be found for forbearance? Look at our own experience on this subject. Virginia and Kentucky, so far back as '98, avowed the principles for which I have been contending—principles which have never since been abandoned; and no instance has yet occurred in which it has been found necessary, practically, to exert the power asserted in those resolutions.

If the alien and sedition laws had not been yielded to the force of public opinion, there can be no doubt that the State of Virginia would have interposed to protect her citizens from its operation. And, if the apprehension of such an interposition by a State should have the effect of restraining the Federal Government from acting, except in cases clearly within the limits of their authority, surely no one can doubt the beneficial operation of such a restraining influence. Mr. Jefferson assures us that the embargo was actually yielded up, rather than force New England into open opposition to it. And it was right to yield it, sir, to the honest convictions of its unconstitutionality entertained by so large a portion of our fellow-citizens. If the knowledge that the States possess the constitutional right to interpose, in the event of "gross, deliberate, and palpable violations of the Constitution," should operate to prevent a perseverance in such violations, surely the effect would be greatly to be desired. But there is one point of view in which this matter presents itself to my mind with irresistible force. The Supreme Court, it is admitted, may nullify an act of Congress, by declaring it to be unconstitutional. Can Congress, after such a nullification, proceed to enforce the law, even if they

to protect its citizens from the usurpation, juries could be found ready merely to register the decrees of the Congress, wholly regardless of the unconstitutional character of their acts? Will the gentleman contend that juries are to be coerced to find verdicts at the point of the bayonet? And, if not, how are the United States to enforce an act solemnly pronounced to be unconstitutional? But, if the attempt should be made to carry such a law into effect, by force, in what would the case differ from an attempt to carry into effect an act nullified by the courts, or to do any other unlawful and unwarrantable act? Suppose Congress should pass an agrarian law, or a law emancipating our slaves, or should commit any other gross violation of our constitutional rights, will any gentleman contend that the decision of every branch of the Federal Government, in favor of such laws, could prevent the States from declaring them null and void, and protecting their citizens from their operation?

Sir, if Congress should ever attempt to enforce any such laws, they would put themselves so clearly in the wrong that no one could doubt the right of the State to exert its protecting power.

Sir, the gentleman has alluded to that portion of the militia of South Carolina with which I have the honor to be connected, and asked how they would act in the event of the nullification of the tariff law by the State of South Carolina? The tone of the gentleman, on this subject, did not seem to me as respectful as I could have desired. I hope, sir, no imputation was intended.

SENATOR WEBSTER.—Not at all; just the reverse.

SENATOR HAYNE.—Well, sir, the gentleman asks what their leaders would be able to read to them out of Coke upon Littleton, or any other law book, to justify their enterprise? Sir, let me assure the gentleman that, whenever any attempt shall be made, from any quarter, to enforce unconstitutional laws, clearly violating our essential rights, our leaders (whoever they may be) will not be found reading black letter from the musty pages of old law books. They will look to the Constitution, and when called upon, by the sovereign authority of the State, to preserve and protect the rights secured to them by the charter of their liberties, they will succeed in defending them, or "perish in the last ditch."

Sir, I will put the case home to the gentleman. Is there any violation of the constitutional rights of the States, and the liberties of the citizen (sanctioned by Congress and the Supreme

Court), which he would believe it to be the right and duty of a State to resist? Does he contend for the doctrine of "passive obedience and non-resistance"? Would he justify an open resistance to an act of Congress, sanctioned by the courts, which should abolish the trial by jury, or destroy the freedom of religion, or the freedom of the press? Yes, sir, he would advocate resistance in such cases; and so would I, and so would all of us. But such resistance would, according to his doctrine, be revolution; it would be rebellion. According to my opinion, it would be just, legal, and constitutional resistance. The whole difference between us, then, consists in this: The gentleman would make force the only arbiter in all cases of collision between the States and the Federal Government. I would resort to a peaceful remedy, the interposition of the State to "arrest the progress of the evil," until such time as "a convention (assembled at the call of Congress, or two-thirds of the States) shall decide to which they mean to give an authority claimed by two of their organs." Sir, I say with Mr. Jefferson (whose words I have here borrowed), that "it is the peculiar wisdom and felicity of our Constitution to have provided this peaceable appeal, where that of other nations" (and I may add that of the gentleman) "is at once to force."

The gentleman has made an eloquent appeal to our hearts in favor of union. Sir, I cordially respond to that appeal. I will yield to no gentleman here in sincere attachment to the Union; but it is a union founded on the Constitution, and not such a union as that gentleman would give us, that is dear to my heart. If this is to become one great "consolidated Government," swallowing up the rights of the States, and the liberties of the citizen, "riding over the plundered ploughmen and beggared yeomanry," the Union will not be worth preserving. Sir, it is because South Carolina loves the Union, and would preserve it forever, that she is opposing now, while there is hope, those usurpations of the Federal Government which, once established, will, sooner or later, tear this Union into fragments. The gentleman is for marching under a banner, studded all over with stars, and bearing the inscription Liberty and Union. I had thought, sir, the gentleman would have borne a standard, displaying in its ample folds a brilliant sun, extending its golden rays from the center to the extremities, in the brightness of whose beams the "little stars hide their diminished heads." Ours, sir, is the banner of the Constitution: the twenty-four stars are there, in all their undiminished luster; on it is inscribed, Liberty—the Constitution—Union. We offer up our

fervent prayers to the Father of all Mercies that it may continue to wave, for ages yet to come, over a free, a happy, and a united people.

At the conclusion of his peroration upon "Liberty and Union now and forever, one and inseparable," Webster's fame as the greatest orator of his age was assured, and thenceforth he received the high-sounding but none too extravagant title of "The Expounder and Defender of the Constitution."

The peroration, however, was eloquently, and, as it seemed then but not later, pertinently objected to a few days afterward (on February 2, 1830,) by Thomas H. Benton [Mo.] in a speech in the Senate.

AN UNTIMELY PRODIGY

SENATOR BENTON ON WEBSTER'S PERORATION

SENATOR BENTON said: Among the novelties of this debate is that part of the speech of the Senator from Massachusetts which dwells with such elaboration of argument and ornament upon the love and blessings of Union—the hatred and horror of disunion. It was a part of the Senator's speech which brought into full play the favorite Ciceronian figure of amplification. It was up to the rule in that particular. But it seemed to me that there was another rule, and a higher, and a precedent one, which it violated. It was the rule of propriety; that rule which requires the fitness of things to be considered; which requires the time, the place, the subject, and the audience, to be considered; and condemns the delivery of the argument, and all its flowers, if it fails in congruence to these particulars. I thought the essay upon union and disunion had so failed. It came to us when we were not prepared for it; when there was nothing in the Senate, nor in the country, to grace its introduction; nothing to give, or to receive, effect to, or from, the impassioned scene that we witnessed. It may be it was the prophetic cry of the distracted daughter of Priam breaking into the council and alarming its tranquil members with vaticinations of the fall of Troy; but to me it all sounded like the sudden proclamation for an earthquake, when the sun, the earth, the air announced no such prodigy; when all the elements of nature were at rest, and sweet repose pervading the world. There was

a time, and you, and I, and all of us did see it, sir, when such a speech would have found in its delivery every attribute of a just and rigorous propriety! It was at a time when the five-striped¹ banner was waving over the land of the North! when the Hartford convention was in session! when the language in the capitol was: "Peaceably if we can; forcibly if we must!" when the cry, out of doors, was: "The Potomac the boundary; the negro States by themselves; The Alleghanies the boundary; the Western savages by themselves! The Mississippi the boundary, let Missouri be governed by a prefect, or given up as a haunt for wild beasts!" That time was the fit occasion for this speech; and, if it had been delivered then, either in the hall of the House of Representatives, or in the den of the convention, or in the highway among the bearers and followers of the five-striped banner, what effects must it not have produced! What terror and consternation among the plotters of disunion! But here, in this loyal and quiet assemblage, in this season of general tranquillity and universal allegiance, the whole performance has lost its effect for want of affinity, connection, or relation to any subject depending, or sentiment expressed in, the Senate; for want of any application, or reference, to any event impending in the country.

¹ The New England States were then only five in number, Maine being still a part of Massachusetts.

CHAPTER III

NULLIFICATION

[DEBATE ON THE FORCE BILL OF 1833]

The Tariff Act of 1832: Senator Henry Clay [Ky.] on the Dissatisfaction of the South with It—Threats of Secession: Speech of Thomas Clayton [Ga.] in the House—Ordinance of Nullification of Tariff by South Carolina—Messages and Proclamation of President Andrew Jackson Against the Ordinance—Congress Enacts a "Force Bill" to Collect the Duties—Debate in the Senate on the Bill: in Favor, William H. Wilkins [Pa.], Felix Grundy [Tenn.], Daniel Webster [Mass.]; Opposed, John Tyler [Va.], and John C. Calhoun [S. C.]—Submission of South Carolina.

THREATS of secession arose again in 1832, when a new and more protective tariff act was passed [see Vol. XII, chapter v], and they were uttered with even greater determination because, in adding to the oppression of which the South complained, the act was in direct violation of the promise of Henry Clay [Ky.], the father of the bill, he having offered in the Senate, previously to its introduction, a resolution in favor of "reduction of duties."

In his speech on the tariff act on February 2, 1832, Senator Clay referred to the discontent of the South as follows:

And now, Mr. President, I have to make a few observations on a delicate subject which I approach with all the respect that is due to its serious and grave nature. It is impossible to conceal from our view the facts that there is great excitement in South Carolina; that the protective system is openly and violently denounced in popular meetings; and that the legislature itself has declared its purpose of resorting to counteracting measures—a suspension of which has only been submitted to for the purpose of allowing Congress time to *retrace* its steps. With respect to this Union, Mr. President, the truth cannot be

too generally proclaimed nor too strongly inculcated that it is necessary to the *whole* and to all the *parts*—necessary to those parts, indeed, in different degrees, but vitally necessary to *each*; and that threats to disturb or dissolve it, coming from any of the parts, would be quite as indiscreet and improper as would be threats from the residue to exclude those parts from the pale of its benefits. The great principle which lies at the foundation of all free government is, that the majority must govern; from which there is or can be no appeal but to the sword. That majority ought to govern wisely, equitably, moderately, and constitutionally, but govern it *must*, subject only to that terrible appeal. If ever one or several States being a minority can, by menacing a dissolution of the Union, succeed in forming an abandonment of great measures deemed essential to the interests and prosperity of the whole, the Union, from that moment, is practically gone. It may linger on in form and name, but its vital spirit has fled forever! Entertaining these deliberate opinions, I would entreat the patriotic people of South Carolina—the land of Marion, Sumter, and Pickens; of Rutledge, Laurens, the Pinckneys, and Lowndes; of living and present names which I would mention if they were not living or present—to pause, solemnly pause! and contemplate the frightful precipice which lies directly before them. To retreat may be painful and mortifying to their gallantry and pride, but it is to retreat to the Union, to safety, and to those brethren with whom, or with whose ancestors, they, or their ancestors, have won on fields of glory imperishable renown. To advance is to rush on certain and inevitable disgrace and destruction.

THREATS OF SECESSION

Toward the close of the debate on this tariff bill the Southern statesmen lost control of their feelings and proclaimed resistance to the oppressive tariff by their States, even to the point of secession from the Union.

Thomas Clayton, a Representative from Georgia, said:

"The South is attached, warmly attached, to the Union; not, it is true, for its money, for we pay all and get nothing; but it is for those free and liberal principles so dear to the rights of man; those principles that form the best security for his life, liberty, and property, without which neither union nor any-

thing else is worth preserving. In the words of a great man, give us union, but give us liberty first. Do not deprive us of all our blessings under the empty sound of union. Do not steal from us our senses under the bewitching charm of union. Do not, like the Madagascar bat, suck us to death while you are fanning us to sleep by the cooling breezes of your widespread wings of union. We begin to understand all this delusion, and we are awake to the sufferings you have insidiously inflicted upon us by the talisman of union. If you will not withdraw your exactions, if you will not live with us upon the terms of equal rights, I tell you in the language of plain truth, to which, perhaps, you are unaccustomed, we shall certainly part from you, and part, I hope, in peace. Then you may hug to yourselves your darling American system; then you may tax your people to your hearts' content; and then, if you choose, you may take to yourselves other gods; but, as for me and my house, we will serve the Lord of Liberty and all the people of the South shall cry, Amen.

In the ensuing presidential election South Carolina, in protest against the Democratic candidate, Andrew Jackson, and the Whig candidate, Henry Clay, both of whom had declared against nullification, voted for Governor John Floyd, of Virginia, a pronounced nullificationist.

On November 24, 1832 (two weeks after the presidential election), the people of South Carolina in convention assembled issued an ordinance of nullification against the tariff, the substance of which was as follows:

ORDINANCE OF NULLIFICATION

BY THE PEOPLE OF SOUTH CAROLINA

"Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but, in reality, intended for the protection of domestic manufactures and the giving of bounties to classes and individuals engaged in particular employments at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath

exceeded its just powers under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burdens of taxation upon the several States and portions of the confederacy: And, whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the Constitution;

"We, therefore, the people of the State of South Carolina, in convention assembled, do declare and ordain that, [these acts] are unauthorized by the Constitution of the United States and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers, or citizens.

"And it is further ordained that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance and to prevent the enforcement and arrest the operation of the said acts within the limits of this State from and after the 1st day of February next.

"And it is further ordained that, in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance or the validity of such act or acts of the legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States; and, if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

"And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this our ordinance and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the federal government, to reduce this State to obedience; but that we will consider the passage by Congress

of any act authorizing the employment of a military or naval force against the State of South Carolina, her constitutional authorities or citizens; or any act abolishing or closing the ports of



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THE VALUE OF A UNIT WITH FOUR CYPHERS GOING BEFORE IT
[Calhoun as the Terrier "Nullifies" the Jackson Administration]
From the collection of the New York Historical Society

this State, or any act to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this

State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do.

This ordinance, signed by more than a hundred prominent citizens, was officially communicated to the President of the United States.

ENFORCEMENT ON THE STATES OF FEDERAL LAWS

FOURTH ANNUAL MESSAGE OF PRESIDENT JACKSON

In his annual message of December 4, 1832, President Jackson, stating that the public debt would shortly be extinguished, proposed a reduction of the tariff in order to conciliate the disaffected section of the Union.

Nevertheless he announced that the defiance of Federal laws by the Southern nullificationists would no longer be tolerated.

"It is my painful duty to state that, in one quarter of the United States, opposition to the revenue laws has risen to a height which threatens to thwart their execution, if not to endanger the integrity of the Union. Whatever obstructions may be thrown in the way of the judicial authorities of the general Government, it is hoped they will be able, peaceably, to overcome them by the prudence of their own offices, and the patriotism of the people. But should this reasonable reliance on the moderation and good sense of all portions of our fellow-citizens be disappointed, it is believed that the laws themselves are fully adequate to the suppression of such attempts as may be immediately made. Should the exigency arise, rendering the execution of the existing laws impracticable, from any cause whatever, prompt notice of it will be given to Congress, with the suggestion of such views and measures as may be deemed necessary to meet it."

The legislature of South Carolina, which met in December, 1832, elected Senator Robert Y. Hayne governor and, in obedience to his message, resumed sovereign powers which the State had resigned to the Federal Government on its ratification of the Constitution,

Constitution; that the true construction of that instrument permits a State to retain its place in the Union and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law, it must be palpably contrary to the Constitution; but it is evident, that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For as, by the theory, there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress. There is, however, a restraint in this last case which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous, when our social compact, in express terms, declares that the laws of the United States, its Constitution, and treaties made under it, are the supreme law of the land; and, for greater caution, adds 'that the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.' And it may be asserted without fear of refutation that no federative government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected anywhere; for all imposts must be equal. It is no answer to repeat that an unconstitutional law is no law so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

"If this doctrine had been established at an earlier day the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non-intercourse law in the Eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than

empowered the State officers to resist the collection of customs, and put the State in readiness for war. Although the State still retained its Senators and Representatives in the Federal Congress, the acts of its legislature were, in national law, a virtual secession from the Union.

On December 10, 1832, the President of the United States issued the following proclamation:

PROCLAMATION AGAINST NULLIFICATION

PRESIDENT JACKSON

After reciting the ordinance of South Carolina he said:

"Whereas the said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its constitution, and having for its object the destruction of the Union—that Union which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations: To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, Andrew Jackson, President of the United States, have thought proper to issue this my proclamation, stating my views of the Constitution and laws applicable to the measures adopted by the convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the convention.

"The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured, but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution; that they may do this consistently with the

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any of the laws now complained of; but fortunately none of those States discovered that they had the right now claimed by South Carolina. The war, into which we were forced to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace, instead of victory and honor, if the States who supposed it a ruinous and unconstitutional measure had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our Constitution was reserved to the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evils of reducing it to practice.

"If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our Government.

"The defects of the confederation need not be here detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home nor consideration abroad. This state of things could not be endured, and our present happy Constitution was formed, but formed in vain, if this fatal doctrine prevail. It was formed for important objects that are announced in the preamble made in the name and by the authority of the people of the United States, whose delegates framed, and whose conventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is 'to form a more perfect Union.' Now, is it possible that even if there were no express provision giving supremacy to the Constitution and laws of the United States over those of the States—can it be conceived that an instrument made for the purpose of 'forming a more perfect Union' than that of the confederation could be so constructed by the assembled wisdom of our country as to substitute for that confederation a form of government dependent for its existence on the local interest, the party spirit of a State, or of a prevailing faction in a State? Every man of plain, unsophisticated understanding who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

"The Constitution declares that the judicial powers of the

United States extend to cases arising under the laws of the United States, and that such laws, the Constitution and treaties shall be paramount to the State constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a court of the United States: by appeal when a State tribunal shall decide against this provision of the Constitution. The ordinance declares there shall be no appeal; makes the State law paramount to the Constitution and laws of the United States; forces judges and jurors to swear that they will disregard their provisions; and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States, or of that State, to enforce the payment of duties imposed by the revenue laws within its limits.

"Here is a law of the United States, not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single State. Here is a provision of the Constitution which is solemnly abrogated by the same authority.

"On such expositions and reasonings the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union if any attempt is made to execute them.

"This right to secede is deduced from the nature of the Constitution, which, they say, is a compact between sovereign States who have preserved their whole sovereignty, and, therefore, are subject to no superior; that, because they made the compact, they can break it when, in their opinion, it has been departed from by the other States. Fallacious as this course of reasoning is it enlists State pride and finds advocates in the honest prejudices of those who have not studied the nature of our Government sufficiently to see the radical error on which it rests.

"The people of the United States formed the Constitution, acting through the State legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but the terms used in its construction show it to be a Government in which the people of all the States collectively are represented. We are one people in the choice of the President and Vice-President. Here the States have no other agency than to direct the mode in which the votes shall be given. Candidates having the majority of all the votes are chosen. The electors of a majority of States may have given their votes for one candidate and yet another may be chosen. The people, then, and not the States, are represented in the executive branch.

"In the House of Representatives there is this difference: that the people of one State do not, as in the case of President and Vice-President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen they are all representatives of the United States, not representatives of the particular State from which they come. They are paid by the United States, not by the State, nor are they accountable to it for any act done in the performance of their legislative functions; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents, when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

"The Constitution of the United States, then, forms a Government, not a league; and whether it be formed by compact between the States, or in any other manner, its character is the same. It is a Government in which all the people are represented, which operates directly on the people individually, not upon the States—they retained all the power they did not grant. But each State, having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any State may at pleasure secede from the Union is to say that the United States are not a nation; because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right is confounding the meaning of terms; and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure.

"Fellow-citizens of my native State, let me not only admonish you, as the first magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are

either deceived themselves, or wish to deceive you. Mark under what pretences you have been led on to the brink of insurrection and treason on which you stand! First, a diminution of the value of your staple commodity, lowered by over-production in other quarters, and the consequent diminution in the value of your lands, were the sole effect of the tariff laws.

"The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burdens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submission to those laws was a state of vassalage, and that resistance to them was equal, in patriotic merit, to the opposition our fathers offered to the oppressive laws of Great Britain. You were told this opposition might be peaceably, might be constitutionally, made; that you might enjoy all the advantages of the Union, and bear none of its burdens. Eloquent appeals to your passions, to your State pride, to your native courage, to your sense of real injury, were used to prepare you for the period when the mask, which concealed the hideous features of disunion, should be taken off. It fell, and you were made to look with complacency on objects which, not long since, you would have regarded with horror. Look back to the arts which have brought you to this state; look forward to the consequences to which it must inevitably lead! Look back to what was first told you as an inducement to enter into this dangerous course. The great political truth was repeated to you that you had the revolutionary right of resisting all laws that were palpably unconstitutional and intolerably oppressive; it was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy! This character which was given to it made you receive with too much confidence the assertions that were made of the unconstitutionality of the law and its oppressive effects. Mark, my fellow-citizens, that, by the admission of your leaders, the unconstitutionality must be palpable or it will not justify either resistance or nullification! What is the meaning of the word palpable, in the sense in which it is here used? That which is apparent to every one; that which no man of ordinary intellect will fail to perceive. Is the unconstitutionality of these laws of that description? Let those among your leaders who once approved and advocated the principle of protective duties answer the question; and let them choose whether they will be considered as incapable, then, of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confi-

dence and endeavoring to mislead you now. In either case they are unsafe guides in the perilous path which they urge you to tread. Ponder well on this circumstance and you will know how to appreciate the exaggerated language which they address to you. They are not champions of liberty emulating the fame of our revolutionary fathers; nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage.

"You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operation of laws which may have been unwisely, not unconstitutionally, passed; but that inequality must necessarily be removed. At the very moment when you were madly urged on to the unfortunate course you have begun a change in public opinion had commenced. The nearly approaching payment of the public debt, and the consequent necessity of a diminution of duties, had already produced a considerable reduction, and that, too, on some articles of general consumption in your State. The importance of this change was underrated, and you were authoritatively told that no further alleviation of your burdens was to be expected, at the very time when the condition of the country imperiously demanded such a modification of the duties as should reduce them to a just and equitable scale. But, as if apprehensive of the effect of this change in allaying your discontents, you were precipitated into the fearful state in which you now find yourselves.

"I adjure you, as you honor their memory; as you love the cause of freedom, to which they dedicated their lives; as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your State the disorganizing edict of its convention; bid its members to reassemble and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity, and honor. Tell them that, compared to disunion, all other evils are light, because that brings with it an accumulation of all. Declare that you will never take the field unless the star-spangled banner of your country shall float over you; that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the Constitution of your country. Its destroyers you cannot be. You may disturb its peace, you may interrupt the course of its prosperity, you may cloud its reputation for stability, but its tranquility will be restored, its prosperity will return, and the stain upon its national character

will be transferred, and remain an eternal blot on the memory of those who caused the disorder.

"Fellow-citizens of the United States, the threat of unhallowed disunion, the names of those, once respected, by whom it is uttered, the array of military force to support it, denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments may depend. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties, I rely, with equal confidence, on your undivided support in my determination to execute the laws, to preserve the Union by all constitutional means, to arrest, if possible, by moderate, but firm, measures the necessity of a recourse to force; and, if it be the will of Heaven that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

"Fellow-citizens: The momentous case is before you. On your undivided support of your Government depends the decision of the great question it involves, whether your sacred Union will be preserved, and the blessings it secures to us as one people shall be perpetuated. No one can doubt that the unanimity with which that decision will be expressed will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom, and the courage which it will bring to their defence will transmit them unimpaired and invigorated to our children."

Despite the President's proclamation the legislature of South Carolina continued to organize State troops and collect munitions of war. Accordingly, early in January, the President sent a special message to Congress.

SPECIAL MESSAGE ON NULLIFICATION

PRESIDENT JACKSON

"I regret to inform you that the several acts of the legislature of South Carolina, which I now lay before you, and which have passed after a knowledge of the desire of the Administration to modify the laws complained of, are too well calculated, both in their positive enactments, and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of that State.

must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States."

"If these measures cannot be defeated and overcome by the power conferred by the Constitution on the Federal Government the Constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union.

"In point of duration, also, those aggressions upon the authority of Congress, which, by the ordinance, are made part of the fundamental law of South Carolina, are absolute, indefinite, and without limitation. They offer to the United States no alternative but unconditional submission. If the scope of the ordinance is to be received as the scale of concession their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties or imposts whatsoever.

"By these various proceedings, therefore, the State of South Carolina has forced the general Government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people at present exercising the authority of the State solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

"In my opinion, both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and of the integrity of the Union. The result of each is the same; since a State in which, by a usurpation of power, the constitutional authority of the Federal Government is openly defied and set aside, wants only the form to be independent of the Union.

"The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberties and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the general Government is constituted and to the objects which it is expressly formed to attain.

"Against all acts which may be alleged to transcend the constitutional power of the Government, or which may be inconvenient or oppressive in their operation, the Constitution itself has prescribed the modes of redress. It is the acknowl-

"A recent proclamation of the present Governor of South Carolina has openly defied the authority of the Executive of the Union, and general orders from the headquarters of the State announced his determination to accept the services of volunteers. Under these orders the forces referred to are directed to 'hold themselves in readiness to take the field at a moment's warning.'

"Under these circumstances there can be no doubt that it is the determination of the authorities of South Carolina fully to carry into effect their ordinance and laws after the 1st of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such measures as they, in their wisdom, may deem fit shall be seasonably provided; and that it may be thereby understood that, while the Government is disposed to remove all just cause of complaint, as far as may be practicable consistently with a proper regard to the interests of the community at large, it is, nevertheless, determined that the supremacy of the laws shall be maintained.

"On the 27th of November the legislature assembled at Columbia; and, on their meeting, the Governor laid before them the ordinance of the convention. In his message, on that occasion, he acquaints them that 'this ordinance has thus become a part of the fundamental law of South Carolina'; that 'the die has been at last cast, and South Carolina has at length appealed to her ulterior sovereignty as a member of this confederacy, and has planted herself on her reserved rights. The rightful exercise of this power is not a question which we shall any longer argue. It is sufficient that she has willed it, and that the act is done; nor is its strict compatibility with our constitutional obligation to all laws passed by the general Government, within the authorized grants of power, to be drawn in question, when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest is neither to be concealed nor denied. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people, in their highest sovereignty, to take care that, within the limits of this State, their will shall be obeyed.' 'The measure of legislation,' he says, 'which you have to employ at this crisis is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties imposed by the protective tariffs thus nullified. You must look to and provide for all possible contingencies. In your own limits your own courts of judicature

edged attribute of free institutions, that, under them, the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time; and to their decisions, when constitutionally pronounced, it becomes the duty, no less of the public authorities than of the people, in every case to yield a patriotic submission.

"Misrule and oppression, to warrant the disruption of the free institutions of the Union of these States, should be great and lasting, defying all other remedy. For causes of minor character the Government could not submit to such a catastrophe without a violation of its most sacred obligations to the other States of the Union who have submitted their destiny to its hands.

"There is, in the present instance, no such cause, either in the degree of misrule or oppression complained of, or in the hopelessness of redress by constitutional means. The same mode of collecting duties, and for the same general objects, which began with the foundation of the Government, and which has conducted the country, through its subsequent steps, to its present enviable condition of happiness and renown, has not been changed. Taxation and representation, the great principle of the American Revolution, have continually gone hand in hand; and at all times, and in every instance, no tax, of any kind, has been imposed without their participation; and in some instances, which have been complained of, with the express assent of a part of the representatives of South Carolina in the councils of the Government. Up to the present period no revenue has been raised beyond the necessary wants of the country and the authorized expenditures of the Government. And as soon as the burden of the public debt is removed those charged with the administration have promptly recommended a corresponding reduction of revenue.

"South Carolina still claims to be a component part of the Union, to participate in the national councils, and to share in the public benefits, without contributing to the public burdens; thus asserting the dangerous anomaly of continuing in an association without acknowledging any other obligation to its laws than what depends upon her own will.

"In this posture of affairs the duty of the Government seems to be plain. It inculcates a recognition of that State as a member of the Union, and subject to its authority; a vindication of the just power of the Constitution; the preservation of the in-

tegrity of the Union; and the execution of the laws by all constitutional means.

"While a forbearing spirit may, and I trust will, be exercised toward the errors of our brethren in a particular quarter, duty to the rest of the Union demands that open and organized resistance to the laws should not be executed with impunity."

In accordance with the recommendations of the President in a special message on January 16, 1833, William H. Wilkins [Pa.], of the Judiciary Committee, reported a bill in the Senate to facilitate the execution of the tariff laws in South Carolina by authorizing, in case of conflict between the Federal officers and citizens, the change of ports of entry and the removal of the customs office from one building to another, and the employment of the land and naval forces of the United States to put down resistance to the collection of duties. This was at once denounced by Southern Senators as a "force" bill, a "bloody" bill, etc. The bill became a law on March 2, 1833.

The chief speakers in the debate in the Senate on this bill were Senator Wilkins, Felix Grundy [Tenn.], and Daniel Webster [Mass.] in its favor, and John Tyler [Va.] and John C. Calhoun [S. C.] in opposition.

THE "FORCE" BILL

SENATE, JANUARY-MARCH 2, 1833

SENATOR WILKINS.—Here nullification is disclaimed, on one hand, unless we abolish our revenue system. We consenting to do this, they remain quiet. But if we go a hair's breadth toward enforcing that system, they present secession. We have secession on one hand, and nullification on the other. The Senator from South Carolina [Calhoun] admitted the other day that no such thing as constitutional secession could exist. Then civil war, disunion, and anarchy must accompany secession. No one denies the right of revolution. That is a natural, indefeasible, inherent right—a right which we have exercised and held out, by our example, to the civilized world. Who denies it? Then we have revolution by force, not constitutional secession. That violence must come by secession is certain. Another law passed by the legislature of South Carolina is entitled a bill to provide

for the safety of the people of South Carolina. It advises them to put on their armor. It puts them in military array; and for what purpose but for the use of force? The provisions of these laws are infinitely worse than those of the feudal system, so far as they apply to the citizens of Carolina. But with its operation on their own citizens he had nothing to do. Resistance was just as inevitable as the arrival of the day on the calendar. In addition to these documents, what did rumor say—rumor, which often falsifies, but sometimes utters truth. If we judge by newspaper and other reports, more men were now ready to take up arms in Carolina than there were during the revolutionary struggle. The whole State was at this moment in arms, and its citizens were ready to be embattled the moment any attempt was made to enforce the revenue laws. The city of Charleston wore the appearance of a military depot.

SENATOR TYLER.—In the course of the examination I have made into this subject I have been led to analyze certain doctrines which have gone out to the world over the signature of the President. Since I have held a place on this floor I have not courted the smiles of the Executive; but whenever he has done any act in violation of the constitutional rights of the citizen, or trenching on the rights of the Senate, I have been found in opposition to him, and I will now say, I care not how loudly the trumpet may be sounded, nor how low the priests may bend their knees before the object of their idolatry, I will be at the side of the President, crying in his ear, "Remember, Philip, thou art mortal!"

I object to the first section because it confers on the President the power of closing old ports of entry and establishing new ones. It has been rightly said by the gentleman from Kentucky [Mr. Bibb] that this was a prominent cause which led to the Revolution. The Boston port bill, which removed the custom-house from Boston to Salem, first roused the people to resistance. To guard against this very abuse the Constitution had confided to Congress the power to regulate commerce; the establishment of ports of entry formed a material part of this power, and one which required legislative enactment. Now I deny that Congress can depute its legislative powers. If it may one, it may all; and thus a majority here can, at their pleasure, change the very character of the Government. The President might come to be invested with authority to make all laws which his discretion might dictate. It is vain to tell me (said Mr. T.) that I imagine a case which will never exist. I tell you, sir, that power is cumulative, and that patronage begets

power. The reasoning is unanswerable. If you can part with your power in one instance, you may in another and another. You may confer upon the President the right to declare war; and this very provision may fairly be considered as investing him with authority to make war at his mere will and pleasure on cities, towns, and villages. The prosperity of a city depends on the position of its custom-house and port of entry. Take the case of Norfolk, Richmond, and Fredericksburg, in my own State; who doubts but that to remove the custom-house from Norfolk to Old Point Comfort, of Richmond to the mouth of the Chickahominy, or of Fredericksburg to Tappahannock or Urbanna, would utterly annihilate those towns? I have no tongue to express my sense of the probable injustice of the measure. Sir, it involves the innocent with the guilty. Take the case of Charleston; what if ninety-nine merchants were ready and willing to comply with your revenue laws, and that but one man could be found to resist them; would you run the hazard of destroying the ninety-nine in order to punish one? Trade is a delicate subject to touch; once divert it out of its regular channels and nothing is more difficult than to restore it. This measure may involve the actual property of every man, woman, and child in that city; and this, too, when you have a redundancy of millions in your treasury, and when no interest can sustain injury by awaiting the actual occurrence of a case of resistance to your laws before you would have an opportunity to legislate.

He is further empowered to employ the land and naval forces to put down all "aiders and abettors." How far will this authority extend? Suppose the legislature of South Carolina should happen to be in session: I will not blink the question, suppose the legislature to be in session at the time of any disturbance, passing laws in furtherance of the ordinance which has been adopted by the convention of that State; might they not be considered by the President as aiders and abettors? The President might not, perhaps, march at the head of his troops, with a flourish of drums and trumpets, and with bayonets fixed, into the state-house yard at Columbia; but, if he did so, he would find a precedent for it in English history.

There is no ambiguity about this measure. The prophecy has already gone forth; the President has said that the laws will be obstructed. The President has not only foretold the coming difficulties, but he has also assembled an army. The city of Charleston, if report spoke true, is now a beleaguered city; the cannon of Fort Pinckney are pointing at it; and, although they are now quietly sleeping, they are ready to open their

thunders whenever the voice of authority shall give the command. And shall these terrors be let loose because some one man may refuse to pay some small modicum of revenue, which Congress, the day after it came into the treasury, might vote in satisfaction of some unfounded claim? Shall we set so small a value upon the lives of the people? Let us at least wait to see the course of measures. We can never be too tardy in commencing the work of blood.

If the majority shall pass this bill they must do it on their own responsibility; I will have no part in it. When gentlemen recount the blessings of union; when they dwell upon the past, and sketch out, in bright perspective, the future, they awaken in my breast all the pride of an American; my pulse beats responsive to theirs, and I regard union, next to freedom, as the greatest of blessings. Yes, sir, "the Federal Union must be preserved." But how? Will you seek to preserve it by force? Will you appease the angry spirit of discord by an oblation of blood? Suppose that the proud and haughty spirit of South Carolina shall not bend to your high edicts in token of fealty; that you make war upon her, hang her governor, her legislators, and judges, as traitors, and reduce her to the condition of a conquered province—have you preserved the Union? This Union consists of twenty-four States; would you have preserved the Union by striking out one of the States—one of the old thirteen? Gentlemen had boasted of the flag of our country, with its thirteen stars. When the light of one of these stars shall have been extinguished will the flag wave over us, under which our fathers fought? If we are to go on striking out star after star, what will finally remain but a central and a burning sun, blighting and destroying every germ of liberty? The flag which I wish to wave over me is that which floated in triumph at Saratoga and Yorktown. It bore upon it thirteen States, of which South Carolina was one. Sir, there is a great difference between preserving union and preserving government; the Union may be annihilated, yet government preserved; but, under such a government, no man ought to desire to live.

Senator Calhoun introduced the following resolutions:

"Resolved, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular

ratification; and that the Union, of which the said compact is the bond, is a union between the States ratifying the same.

"Resolved, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a general government to carry into effect the objects for which they were formed, delegated to that government, for that purpose, certain definite powers, to be exercised jointly, reserving at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate government; and that whenever the general Government assumes the exercise of powers not delegated by the compact its acts are unauthorized, and are of no effect; and that the same Government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.

"Resolved, That the assertions that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and as such are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the general Government; that they have parted with the right of punishing treason through their respective State governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and, of consequence, of those delegated; are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the clearest deductions of reason; and that all exercise of power on the part of the general Government, or any of its departments, claiming authority from so erroneous assumptions, must of necessity be unconstitutional, must tend directly and inevitably to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

To these resolutions Senator Grundy offered a counter set, as follows:

Should they be able to maintain in their full vigor their reserved rights, liberty and prosperity will be their portion; but if they yield, and permit the stronger interest to consolidate within itself all the powers of the Government, then will its fate be more wretched than that of the aborigines whom they have expelled, or of their slaves. In this great struggle between the delegated and reserved powers, so far from repining that his lot and that of those whom he represented is cast on the side of the latter, he rejoiced that such is the fact; for, though we participate in but few of the advantages of the Government, we are compensated, and more than compensated, in not being so much exposed to its corruption. Nor did he repine that the duty, so difficult to be discharged, as the defence of the reserved powers against, apparently, such fearful odds, had been assigned to them. To discharge successfully this high duty requires the highest qualities, moral and intellectual; and, should you perform it with a zeal and ability in proportion to its magnitude, instead of being mere planters, our section will become distinguished for its patriots and statesmen. But, on the other hand, if we prove unworthy of this high destiny, if we yield to the steady encroachment of power, the severest and most debasing calamity and corruption will overspread the land. Every Southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be forever excluded from the honors and emoluments of this Government, which will be reserved for those only who have qualified themselves, by political prostitution, for admission into the Magdalen Asylum."

Senator Webster denied the derivation of nullification and secession from the Constitution. He said:

"The Constitution does not provide for events which must be preceded by its own destruction. Secession, therefore, since it must bring these consequences with it, is revolutionary. And nullification is equally revolutionary. What is revolution? Why, sir, that is revolution which overturns, or controls, or successfully resists the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the State. Now, sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the executive magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordi-

"1. Resolved, That by the Constitution of the United States certain powers are delegated to the general Government, and those not delegated, or prohibited to the States, are reserved to the States respectively, or to the people.

"2. Resolved, That one of the powers expressly granted by the Constitution to the general Government, and prohibited to the States, is that of laying duties on imports.

"3. Resolved, That the power to lay imposts is by the Constitution wholly transferred from the State authorities to the general Government, without any reservation of power or right on the part of the State.

"4. Resolved, That the tariff laws of 1828 and 1832 are exercises of the constitutional power possessed by the Congress of the United States, whatever various opinions may exist as to their policy and justice.

"5. Resolved, That an attempt on the part of a State to annul an act of Congress passed upon any subject exclusively confided by the Constitution to Congress is an encroachment on the rights of the general Government.

"6. Resolved, That attempts to obstruct or prevent the execution of the several acts of Congress imposing duties on imports, whether by ordinances of conventions or legislative enactments, are not warranted by the Constitution, and are dangerous to the political institutions of the country."

Senator Calhoun spoke to his resolutions as follows:

"We have now sufficient experience to ascertain that the tendency to conflict in this action is between Southern and other sections. The latter, having a decided majority, must habitually be possessed of the powers of the Government, both in this and in the other House; and, being governed by that instinctive love of power so natural to the human breast, they must become the advocates of the power of Government, and in the same degree opposed to the limitations; while the other and weaker section is as necessarily thrown on the side of the limitations. In one word, the one section is the natural guardian of the delegated powers, and the other of the reserved; and the struggle on the side of the former will be to enlarge the powers, while that on the opposite side will be to restrain them within their constitutional limits. The contest will, in fact, be a contest between power and liberty, and such he considered the present; a contest in which the weaker section, with its peculiar labor, productions, and situation, has at stake all that can be dear to freemen.

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nance it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect a revolution will have commenced in South Carolina. She will have thrown off the authority to which her citizens have, heretofore, been subject. She will have declared her own opinions and her own will to be above the laws, and above the power of those who are intrusted with their administration. If she makes good these declarations she is revolutionized. As to her, it is as distinctly a change of the supreme power as the American Revolution of 1776. That revolution did not subvert government in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American colonies, now the United States, bade it defiance, and freed themselves from it by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress—if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases, and disobey them when she pleases—she will relieve herself from a paramount power as distinctly as did the American colonies in 1776. In other words, she will achieve, as to herself, a revolution.

"But, sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the Constitution as to all the other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States and yet not expect to see a dismemberment of the entire Government, appears to me the wildest illusion and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he knows not whither. To begin with nullification, with the avowed intent, nevertheless, not to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop half-way down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

"Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four-and-twenty distinct powers, each professing to be under a general government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the Constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether it cannot stand in parts; and if the laws cannot be executed everywhere they cannot long be executed anywhere. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South Carolina, and another for other States. He must see, therefore, and does see—every man sees—that the only alternative is a repeal of the laws throughout the whole Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded because a single State interposes her veto and threatens resistance! The result of the gentleman's opinions, or, rather, the very text of his doctrine, is, that no act of Congress can bind all the States, the constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This was precisely the evil experienced under the old Confederation, and for remedy of which this Constitution was adopted. The articles of confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a Government which should have power of itself to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States without asking the consent of the State governments. This was the very power on which the new Constitution was to depend for all its ability to do good; and, without it, it can be no Government, now or at any time. Yet, sir, it is precisely against this power, so absolutely indispensable to the very being of the Government, that South Carolina directs her ordinance. She attacks the Government in its authority to raise revenue, the very mainspring of the whole system; and, if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law as a revenue law, but as a law for protecting manufactures. It is a revenue law; it is the very law by force of which the revenue is

collected; if it be arrested in any State the revenue ceases in that State; it is, in a word, the sole reliance of the Government for the means of maintaining itself and performing its duties."

Senator Webster condensed into four brief and pointed propositions his opinion of the nature of our Federal Government, as being a union in contradistinction to a league, and as acting upon individuals in contradistinction to States, and as being, in these features, discriminated from the old Confederation.

"1. That the Constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

"2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

"3. That there is a supreme law, consisting of the Constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

"4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the general Government, and on the equal rights of other States; a plain violation of the Constitution, and a proceeding essentially revolutionary in its character and tendency."

Senator Webster concluded thus:

"Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion upon a provision of the Constitution between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States on the other. It will not credit

the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness, without practical oppression, without evils, such as may not only be pretended, but felt and experienced; evils not slight or temporary, but deep, permanent, and intolerable; a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who hear and see it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable that South Carolina should thus plunge headlong into resistance to the laws, on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinions also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the Constitution; that she has a sovereign right to decide this matter; and that, having so decided, she is authorized to resist their execution by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms."

After the passage of the bill Senator Calhoun said:

"It would be idle to attempt to disguise that the bill will be a practical assertion of one theory of the Constitution against another—the theory advocated by the supporters of the bill, that ours is a consolidated government, in which the States have no rights, and in which, in fact, they bear the same relation to the whole community as the counties do to the States; and against that view of the Constitution which considers it as a compact formed by the States as separate communities, and binding between the States, and not between the individual citizens. No man of candor, who admits that our Constitution is a compact, and was formed and is binding in the manner he had just stated, but must acknowledge that this bill utterly over-

throws and prostrates the Constitution; and that it leaves the Government under the control of the will of an absolute majority.

"If the measure be acquiesced in it will be the termination of that long controversy which began in the convention, and which has been continued under various fortunes until the present day. But it ought not—it will not—it cannot be acquiesced in—unless the South is dead to the sense of her liberty, and blind to those dangers which surround and menace them; she



LOCOFOCO AND NULLIFICATION NUPTIALS
From the collection of the New York Historical Society

never will cease resistance until the act is erased from the statute book. To suppose that the entire power of the Union may be placed in the hands of this Government, and that all the various interests in this widely extended country may be safely placed under the will of an unchecked majority, is the extreme of folly and madness. The result would be inevitable that power would be exclusively centered in the dominant interest north of this river, and that all south of it would be held as subjected provinces, to be controlled for the exclusive benefit of the stronger section. Such a state of things could not endure; and the Constitution and liberty of the country would fall in the contest if permitted to continue.

"He trusted that that would not be the case, but that the advocates of liberty everywhere, as well in the North as in the South; that those who maintained the doctrines of '98, and the sovereignties of the State; that the Republican party throughout the country would rally against this attempt to establish, by law, doctrines which must subvert the principles on which free institutions could be maintained."

South Carolina admitted it was beaten by failing to execute its threat of formal secession from the Union in the event of the employment of force by the Federal Government in the collection of duties.

The issue of nullification remained latent until the election of Abraham Lincoln as President, when it arose in the sterner guise of secession. It was occasionally referred to, in the interim, as in the preceding cartoon of the presidential election of 1836:

CHAPTER IV

"POPULAR SOVEREIGNTY"

Senator Stephen A. Douglas and President James Buchanan Clash Over the Lecompton Constitution: It Is Defeated—Content of Senator Douglas and Abraham Lincoln for the Senatorship of Illinois—Lincoln's Speech Accepting the Nomination: "A House Divided"—His Reply to Douglas: "The Law of Equal Freedom"—Joint Debate Between Lincoln and Douglas on "Slavery in the Territories"—Douglas's Freeport Doctrine of "Unfriendly Legislation": It Wins Him the Senatorship and Loses him the Presidency—Debate Between Lincoln and Douglas on "The Moral Climate Issue."

THE prediction of President Jackson that the next pretext for secession which the South Carolinians would seize upon would probably be slavery showed active signs of fulfillment in 1858.

Presaging the division of the country was the disruption of the Democratic party, the bond which had thus far held North and South together. The split in the party began with the indorsement by President Buchanan of the Lecompton constitution.

THE LECOMPTON CONSTITUTION

On his inauguration the President persuaded Robert J. Walker [Miss.], the distinguished ex-Secretary of the Treasury, who had retired from politics, to take the troublesome seat of Governor of Kansas, from which John W. Geary [Ind.] had resigned in disapprobation of the Administration's policy toward the Territory.

Governor Walker dealt fairly with both factions in Kansas and succeeded in reducing materially the disorders.

The Free State men, continually increasing in num-

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bers, steadily refused to accept the proslavery legislature. This body held a constitutional convention at Lecompton early in September, 1857. The convention formed a constitution which recognized slavery and submitted it to the people at an election held on December 21. The vote was taken "For the constitution *with* slavery" or "For the constitution *without* slavery," no rejection of the constitution in its entirety being permitted. The Free State men refused to recognize the election as legal and so did not vote, and the constitution with slavery was chosen by an overwhelming majority.

In the meantime an election for a new territorial legislature had been held, and at this, in despite of great frauds committed by the proslavery men, a majority of Free State men was returned and a Free State Delegate to Congress was chosen. This legislature repudiated the constitutional election and ordered another to be held on January 4, 1858, at which votes for or against the Lecompton constitution *in toto* were to be given. The proslavery men refused to take part in this election, since they upheld the validity of the former one, and the vote against the constitution was virtually unanimous.

In his annual message at the opening of Congress (December 8, 1857) President Buchanan supported the first election (which was called but had not yet been held) as a valid one.

During the ensuing session of Congress the validity of the Lecompton constitution was the chief subject of debate in both the Senate and the House.

Senator Stephen A. Douglas [Ill.] seeing that the indorsement by the President of the Lecompton constitution placed the principle of popular sovereignty in jeopardy by limiting its application to the question of slavery alone, placed himself in opposition to the President on this issue—a position which led to general opposition to the Administration by himself and his following throughout its course and finally brought on the complete disruption of the Democratic party.

Owing to the division in the Democratic ranks, on

February 8, 1858, the House by three votes refused to admit Kansas under the Lecompton constitution.

On February 18 James S. Green [Mo.] introduced in the Senate the bill of the Committee on Territories to admit Kansas under the Lecompton constitution. On March 4 he proposed a substitute admitting both Kansas and Minnesota. Minnesota, however, was dropped, and on March 23 the bill was passed by a vote of 33 to 25. On April 1 the House rejected the Senate bill by a majority of 42 votes. At the instigation of Senator John J. Crittenden [Ky.] Representative William Montgomery [Pa.] then moved a substitute providing for a popular vote on the Lecompton constitution. This was adopted by a vote of 120 to 112. On the following day (April 2) the Senate rejected the substitute bill by a vote of 32 to 23. On April 13 the Senate moved the appointment of a committee to confer on the question with a similar committee of the House. James S. Green [Mo.], Robert M. T. Hunter [Va.], and William H. Seward [N. Y.] were appointed on the committee. On the following day the House decided to choose a committee by the casting vote of the Speaker, James L. Orr [S. C.]. He appointed William H. English [Ind.], Alexander H. Stephens [Ga.], and William A. Howard [Mich.].

The votes of Stephens, an Administration Democrat, and Howard, a Republican, offset each other, and that of English, a Northern Democrat who was understood to be in sympathy with Senator Douglas's opposition to the Lecompton constitution, was left to decide. English submitted a plan to the joint committee by which the people of Kansas were to vote simply on a question of whether they would agree to accept Congress's disposition of public lands in the new State, and, if the vote were in the affirmative, the Territory would be admitted under the Lecompton constitution, and if in the negative another constitutional convention would be held (after it had been determined by a census that the Territory contained sufficient population to be admitted) to determine whether the State should be admitted with or without slavery. The joint committee adopted English's plan and presented a bill with its provisions. This

meant that Kansas would be rewarded by land grants as well as immediate Statehood if it accepted the Leecompton constitution, and would be punished if it did not accept it by pecuniary loss as well as by an indefinite postponement of Statehood.

On April 30 the House adopted the English bill by 112 votes to 103, and the Senate by 31 votes to 22, and it was signed by President Buchanan.

SUBSEQUENT HISTORY OF KANSAS

Kansas voted in the negative on the land question. After a census had been taken which showed, what everybody had known, that Kansas had the requisite population to become a State, the Kansas legislature decreed a new constitutional convention. Delegates to this were elected by the people, and the convention was held at Wyandotte in March, 1859. It framed a Free State constitution, which was ratified at a popular election in October, at which Republican State officers and a Republican Congressman were elected. A bill to admit Kansas under the Wyandotte constitution was introduced in the House by Galusha A. Grow [Pa.] on February 15, 1860, and passed by the Republican House on April 11, by a vote of 134 to 73, but negatived by the Democratic Senate by 32 votes to 27. On January 21, 1861, the day when the Southern Senators resigned their seats, William H. Seward [N. Y.] again presented the bill in the Senate and it passed by a vote of 36 to 16. On January 28, on motion of Mr. Grow, the House passed the bill by a vote of 119 to 42, and on approval by President Abraham Lincoln the long-suffering Territory became a member of the Union.

The senatorial term of Stephen A. Douglas [Ill.] was about to expire, and he realized that he could gain no assistance in his reelection from the Administration, the postmasters, and other national officials who, by their positions, were political leaders of the Democratic party in his State being generally indifferent to his success and, in some cases, actively hostile. Accordingly he prepared himself for "the fight of his life."

spread of it, and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction; or its advocates will push it forward till it shall become alike lawful in all the States, old as well as new, North as well as South.

Have we no tendency to the latter condition?

Let any one who doubts carefully contemplate that now almost complete legal combination—piece of machinery, so to speak—compounded of the Nebraska doctrine and the Dred Scott decision. Let him consider not only what work the machinery is adapted to do, and how well adapted; but also let him study the history of its construction, and trace, if he can, or rather fail, if he can, to trace the evidence of design and concert of action among its chief architects, from the beginning.

Here the speaker reviewed the history of the Repeal of the Missouri Compromise and the Dred Scott Decision.

The reputed author of the Nebraska bill finds an early occasion to make a speech at this capital indorsing the Dred Scott decision, and vehemently denouncing all opposition to it. The new President, too, seizes an early occasion to indorse and strongly construe that decision, and to express his astonishment that any different view had ever been entertained!

At length a squabble springs up between the President and the author of the Nebraska bill, on the mere question of fact, whether the Leecompton constitution was or was not, in any just sense, made by the people of Kansas; and in that quarrel the latter declares that all he wants is a fair vote for the people, and that he cares not whether slavery be voted down or voted up. I do not understand his declaration that he cares not whether slavery be voted down or voted up to be intended by him other than as an apt definition of the policy he would impress upon the public mind—the principle for which he declares he has suffered so much, and is ready to suffer to the end. And well may he cling to that principle. If he has any parental feeling, well may he cling to it. That principle is the only shred left of his original Nebraska doctrine. Under the Dred Scott decision "squatter sovereignty" squatted out of existence, tumbled down like temporary scaffolding—like the mold at the foundry, served through one blast and fell back into loose sand—helped to carry an election and then was kicked to the winds. His late joint struggle with the Republicans against the Leecompton constitution involves nothing of the original Nebraska doctrine. That struggle was made on a point—the right of a people

The Republicans realized their opportunity to secure a party colleague for Senator Lyman Trumbull, and so nominated the ablest and most popular Republican in their State, Douglas's inveterate opponent, Abraham Lincoln. On June 16, 1858, at the close of the convention, which was held at Springfield, the State capital, Lincoln accepted the nomination in what was thus far the best speech of his career. He carefully prepared it and read it to his friends. William H. Herndon, his law partner, said: "Lincoln, deliver that speech as read and it will make you President." Others objected to the extreme position he had taken in declaring that the nation could not continue half slave and half free. Jesse K. Dubois said that it was "a damned fool speech" which would lose him the election, but Lincoln replied: "The time has come when these sentiments should be uttered, and, if it is decreed that I should go down because of this speech, then let me go down linked to the truth." And, after the defeat which was prophesied by Dubois had come to pass, Lincoln said: "If I had to draw a pen across my record, and erase my whole life from remembrance, and I had a choice allowed me what I might save from the wreck, I should choose that speech and leave it to the world just as it is."

"A HOUSE DIVIDED AGAINST ITSELF CANNOT STAND"

ABRAHAM LINCOLN

If we could first know where we are, and whither we are tending, we could better judge what to do, and how to do it. We are now far into the fifth year since a policy was initiated with the avowed object and confident promise of putting an end to slavery agitation. Under the operation of that policy that agitation has not only not ceased, but has constantly augmented. In my opinion, it will not cease until a crisis shall have been reached and passed. "A house divided against itself cannot stand." I believe this Government cannot endure permanently half slave and half free. I do not expect the Union to be dissolved—I do not expect the house to fall—but I do expect it will cease to be divided. It will become all one thing, or all the other. Either the opponents of slavery will arrest the further

to make their own constitution—upon which he and the Republicans have never differed.

The several points of the Dred Scott decision, in connection with Senator Douglas's "care not" policy, constitute the piece of machinery in its present state of advancement. This was the third point gained. The working points of that machinery are:

(1) That no negro slave, imported as such from Africa, and no descendant of such slave, can ever be a citizen of any State, in the sense of that term as used in the Constitution of the United States. This point is made in order to deprive the negro in every possible event of the benefit of that provision of the United States Constitution which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

(2) That, "subject to the Constitution of the United States," neither Congress nor a territorial legislature can exclude slavery from any United States Territory. This point is made in order that individual men may fill up the Territories with slaves without danger of losing them as property, and thus enhance the chances of permanency to the institution through all the future.

(3) That whether the holding a negro in actual slavery in a free State makes him free as against the holder, the United States courts will not decide, but will leave to be decided by the courts of any slave State the negro may be forced into by the master. This point is made, not to be pressed immediately, but, if acquiesced in for a while, and apparently indorsed by the people at an election, then to sustain the logical conclusion that what Dred Scott's master might lawfully do with Dred Scott in the free State of Illinois every other master may lawfully do with any other one or one thousand slaves in Illinois or in any other free State.

Auxiliary to all this, and working hand in hand with it, the Nebraska doctrine, or what is left of it, is to educate and mold public opinion, at least Northern public opinion, not to care whether slavery is voted down or voted up. This shows exactly where we now are, and partially, also, whither we are tending.

It will throw additional light on the latter, to go back and run the mind over the string of historical facts already stated. Several things will now appear less dark and mysterious than they did when they were transpiring. The people were to be left "perfectly free," "subject only to the Constitution." What the Constitution had to do with it outsiders could not then see. Plainly enough now, it was an exactly fitted niche for the Dred Scott decision to afterward come in and declare the perfect free-

dom of the people to be just no freedom at all. Why was the amendment expressly declaring the right of the people voted down? Plainly enough now, the adoption of it would have spoiled the niche for the Dred Scott decision. Why was the court decision held up? Why even a Senator's individual opinion withheld till after the presidential election? Plainly enough now, the speaking out then would have damaged the "perfectly free" argument upon which the election was to be carried. Why the outgoing President's felicitation on the indorsement? Why the delay of a reargument? Why the incoming President's advance exhortation in favor of the decision? These things look like the cautious patting and petting of a spirited horse preparatory to mounting him, when it is dreaded that he may give the rider a fall. And why the hasty after-indorsement of the decision by the President and others?

We cannot absolutely know that all these exact adaptations are the result of preconcert. But when we see a lot of framed timbers, different portions of which we know have been gotten out at different times and places and by different workmen—Stephen, Franklin, Roger, and James, for instance—and we see these timbers joined together, and see they exactly make the frame of a house or a mill, all the tenons and mortises exactly fitting, and all the lengths and proportions of the different pieces exactly adapted to their respective places, and not a piece too many or too few, not omitting even scaffolding—or, if a single piece be lacking, we see the place in the frame exactly fitted and prepared yet to bring such piece in—in such a case we find it impossible not to believe that Stephen and Franklin and Roger and James all understood one another from the beginning, and all worked upon a common plan or draft drawn up before the first blow was struck.

It should not be overlooked that, by the Nebraska bill, the people of a State as well as Territory were to be left "perfectly free," "subject only to the Constitution." Why mention a State? They were legislating for Territories, and not for or about States. Certainly the people of a State are and ought to be subject to the Constitution of the United States; but why is mention of this lugged into this merely territorial law? Why are the people of a Territory and the people of a State therein lumped together, and their relation to the Constitution therein treated as being precisely the same? While the opinion of the court, by Chief Justice Taney, in the Dred Scott case, and the separate opinions of all the concurring judges, expressly declare that the Constitution of the United States neither permits Con-

gress nor a territorial legislature to exclude slavery from any United States Territory, they all omit to declare whether or not the same Constitution permits a State, or the people of a State, to exclude it. Possibly, this is a mere omission; but who can be quite sure, if McLean or Curtis had sought to get into the opinion a declaration of unlimited power in the people of a State to exclude slavery from their limits, just as Chase and Mace sought to get such declaration, in behalf of the people of a Territory, into the Nebraska bill—I ask, who can be quite sure that it would not have been voted down in the one case as it had been in the other? The nearest approach to the point of declaring the power of a State over slavery is made by Judge Nelson. He approaches it more than once, using the precise idea, and almost the language, too, of the Nebraska act. On one occasion his exact language is: "Except in cases where the power is restrained by the Constitution of the United States the law of the State is supreme over the subject of slavery within its jurisdiction." In what cases the power of the States is so restrained by the United States Constitution is left an open question, precisely as the same question as to the restraint on the power of the Territories was left open in the Nebraska act. Put this and that together, and we have another nice little niche, which we may, ere long, see filled with another Supreme Court decision declaring that the Constitution of the United States does not permit a State to exclude slavery from its limits. And this may especially be expected if the doctrine of "care not whether slavery be voted down or voted up" shall gain upon the public mind sufficiently to give promise that such a decision can be maintained when made.

Such a decision is all that slavery now lacks of being alike lawful in all the States. Welcome, or unwelcome, such decision is probably coming, and will soon be upon us, unless the power of the present political dynasty shall be met and overthrown. We shall lie down pleasantly dreaming that the people of Missouri are on the verge of making their State free, and we shall awake to the reality instead that the Supreme Court has made Illinois a slave State. To meet and overthrow the power of that dynasty is the work now before all who would prevent that consummation. That is what we have to do. How can we best do it?

There are those who denounce us openly to their own friends, and yet whisper us softly that Senator Douglas is the aptest instrument there is with which to effect that object. They wish us to infer all this from the fact that he now has a little quarrel with the present head of the dynasty; and that he has regularly voted with us on a single point upon which he and we have

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never differed. They remind us that he is a great man, and that the largest of us are very small ones. Let this be granted. But "a living dog is better than a dead lion." Judge Douglas, if not a dead lion for this work, is at least a caged and toothless one. How can he oppose the advances of slavery? He doesn't care anything about it. His avowed mission is impressing the "public heart" to care nothing about it. A leading Douglas Democratic newspaper thinks Douglas's superior talent will be needed to resist the revival of the African slave-trade. Does Douglas believe an effort to revive that trade is approaching? He has not said so. Does he really think so? But if it is, how can he resist it? For years he has labored to prove it a sacred right of white men to take negro slaves into the new Territories. Can he possibly show that it is less a sacred right to buy them where they can be bought cheapest? And unquestionably they can be bought cheaper in Africa than in Virginia. He has done all in his power to reduce the whole question of slavery to one of a mere right of property; and, as such, how can he oppose the foreign slave-trade? How can he refuse that trade in that "property" shall be "perfectly free," unless he does it as a protection to the home production? And, as the home producers will probably not ask the protection, he will be wholly without a ground of opposition.

Senator Douglas holds, we know, that a man may rightfully be wiser to-day than he was yesterday—that he may rightfully change when he finds himself wrong. But can we, for that reason, run ahead, and infer that he will make any particular change of which he, himself, has given no intimation? Can we safely base our action upon any such vague inference? Now, as ever, I wish not to misrepresent Judge Douglas's position, question his motives, or do aught that can be personally offensive to him. Whenever, if ever, he and we can come together on principle so that our great cause may have assistance from his great ability, I hope to have interposed no adventitious obstacle. But, clearly, he is not now with us—he does not pretend to be—he does not promise ever to be.

Our cause, then, must be entrusted to, and conducted by, its own undoubted friends—those whose hands are free, whose hearts are in the work, who do care for the result. Two years ago the Republicans of the nation mustered over thirteen hundred thousand strong. We did this under the single impulse of resistance to a common danger, with every external circumstance against us. Of strange, discordant, and even hostile elements, we gathered from the four winds, and formed and fought the

battle through, under the constant hot fire of a disciplined, proud, and pampered enemy. Did we brave all then to falter now?—now, when that same enemy is wavering, dissevered, and belligerent? The result is not doubtful. We shall not fail—if we stand firm, we shall not fail. Wise counsels may accelerate or mistakes delay it, but sooner or later the victory is sure to come.

On July 9 Senator Douglas spoke at a public reception given to him in Chicago. On the following day and in the same city Lincoln replied to him.

THE LAW OF EQUAL FREEDOM

ABRAHAM LINCOLN

Judge Douglas said yesterday evening:

I have made up my mind to appeal to the people against the combination that has been made against me. The Republican leaders have formed an alliance, an unholy and unnatural alliance, with a portion of unscrupulous federal office-holders. I intend to fight that allied army wherever I meet them. I know they deny the alliance, but yet these men who are trying to divide the Democratic party for the purpose of electing a Republican Senator in my place are just so much the agents and tools of the supporters of Mr. Lincoln. Hence I shall deal with this allied army just as the Russians dealt with the allies at Sebastopol—that is, the Russians did not stop to inquire, when they fired a broadside, whether it hit an Englishman, a Frenchman, or a Turk. Nor will I stop to inquire, nor shall I hesitate, whether my blows shall hit these Republican leaders or their allies, who are holding the Federal offices and yet acting in concert with them.

Well, now, gentlemen, is not that very alarming? Just to think of it! right at the outset of his canvass, I, a poor, kind, amiable, intelligent gentleman—I am to be slain in this way. Why, my friend the judge is not only, as it turns out, not a dead lion, nor even a living one—he is the rugged Russian bear.

But if they will have it that the Administration men and we are allied, and we stand in the attitude of English, French, and Turk, he occupying the position of the Russian—in that case I beg he will indulge us while we barely suggest to him that these allies took Sebastopol.

In this speech Lincoln discussed the Douglas theory of popular sovereignty, which he declared had been exploded by the Dred Scott decision.

He was agreed with Judge Douglas in opposition

to the Lecompton constitution—all Republicans were—in fact, there were five Republicans against it for every Democrat. Why should Douglas claim the chief credit for its defeat?

Judge Douglas made two points upon my recent speech at Springfield. He says they are to be the issues of this campaign. The first one of these points he bases upon the language in a speech which I delivered at Springfield.

Here the speaker quoted the paragraph concerning the "house divided against itself." See page 109.

In this paragraph Judge Douglas thinks he discovers great political heresy. I want your attention particularly to what he has inferred from it. He says I am in favor of making all the States of this Union uniform in all their internal regulations; that in all their domestic concerns I am in favor of making them entirely uniform. He says that I am in favor of making war by the North upon the South for the extinction of slavery; that I am also in favor of inviting (as he expresses it) the South to a war upon the North, for the purpose of nationalizing slavery. Now, it is singular enough, if you will carefully read that passage over, that I did not say that I was in favor of anything in it. I only said what I expected would take place. I made a prediction only—it may have been a foolish one, perhaps. I did not even say that I desired that slavery should be put in course of ultimate extinction. I do say so now, however, so there need be no longer any difficulty about that.

I am not, in the first place, unaware that this Government has endured eighty-two years half slave and half free. I believe it has endured because, during all that time, until the introduction of the Nebraska bill, the public mind did rest all the time in the belief that slavery was in course of ultimate extinction. I have always hated slavery, I think, as much as any Abolitionist—I have been an old-line Whig—but I have always been quiet about it until this new era of the introduction of the Nebraska bill began. I always believed that everybody was against it, and that it was in course of ultimate extinction. The great mass of the nation have rested in the belief that slavery was in course of ultimate extinction. They had reason so to believe.

Here Lincoln discussed the opinions of the Fathers of the country on the question.

sire that anything should be done to bring about the ultimate extinction of that little thing, I must be in favor of bringing about an amalgamation of all the other little things in the Union. Now, it so happens—and there, I presume, is the foundation of this mistake—that the judge thinks thus; and it so happens that there is a vast portion of the American people that do not look upon that matter as being this very little thing. They look upon it as a vast moral evil; they can prove it as such by the writings of those who gave us the blessings of liberty which we enjoy, and that they so looked upon it, and not as an evil merely confining itself to the States where it is situated, and while we agree that, by the Constitution we assented to, in the States where it exists we have no right to interfere with it, because it is in the Constitution, we are by both duty and inclination to stick by that Constitution in all its letter and spirit from beginning to end.

Another of the issues Judge Douglas says that is to be made with me is upon his devotion to the Dred Scott decision, and my opposition to it.

I have expressed heretofore, and I now repeat, my opposition to the Dred Scott decision; but I should be allowed to state the nature of that opposition, and I ask your indulgence while I do so. What is fairly implied by the term Judge Douglas has used, "resistance to the decision"? I do not resist it. If I wanted to take Dred Scott from his master I would be interfering with property, and that terrible difficulty that Judge Douglas speaks of, of interfering with property, would arise. But I am doing no such thing as that; all that I am doing is refusing to obey it as a political rule. If I were in Congress, and a vote should come up on a question whether slavery should be prohibited in a new Territory, in spite of the Dred Scott decision I would vote that it should.

That is what I would do. Judge Douglas said last night that before the decision he might advance his opinion, and it might be contrary to the decision when it was made; but after it was made he would abide by it until it was reversed. Just so! We let this property abide by the decision, but we will try to reverse that decision. We will try to put it where Judge Douglas would not object, for he says he will obey it until it is reversed. Somebody has to reverse that decision, since it is made; and we mean to reverse it, and we mean to do it peaceably.

We were often, in the course of Judge Douglas's speech last night, reminded that this Government was made for white men. Well, that is putting it into a shape in which no one wants to

I have said a hundred times, and I have now no inclination to take it back, that I believe there is no right, and ought to be no inclination, in the people of the free States to enter into the slave States and interfere with the question of slavery at all.

So much, then, for the inference that Judge Douglas draws, that I am in favor of setting the sections at war with one another.

Now in relation to his inference that I am in favor of a general consolidation of all the local institutions of the various States. I have said very many times in Judge Douglas's hearing that no man believed more than I in the principle of self-government; that it lies at the bottom of all my ideas of just government from beginning to end. I have denied that his use of that term applies properly. But for the thing itself I deny that any man has ever gone ahead of me in his devotion to the principle, whatever he may have done in advocating it. I believe each individual is naturally entitled to do as he pleases with himself and the fruit of his labor, so far as it in no wise interferes with any other man's rights; that each community, as a State, has a right to do exactly as it pleases with all the concerns within that State that interfere with the right of no other State; and that the general Government, upon principle, has no right to interfere with anything other than that general class of things that does concern the whole. I have said that at all times. I have said as illustrations that I do not believe in the right of Illinois to interfere with the cranberry laws of Indiana, the oyster laws of Virginia, or the liquor laws of Maine.

How is it, then, that Judge Douglas infers, because I hope to see slavery put where the public mind shall rest in the belief that it is in the course of ultimate extinction, that I am in favor of Illinois going over and interfering with the cranberry laws of Indiana? What can authorize him to draw any such inference? I suppose there might be one thing that at least enabled him to draw such an inference that would not be true with me or many others; that is, because he looks upon all this matter of slavery as an exceedingly little thing—this matter of keeping one-sixth of the population of the whole nation in a state of oppression and tyranny unequalled in the world. He looks upon it as being an exceedingly little thing, only equal to the question of the cranberry laws of Indiana—as something having no moral question in it—as something on a par with the question of whether a man shall pasture his land with cattle or plant it with tobacco—so little and so small a thing that he concludes, if I could de-

deny it; but the judge then goes into his passion for drawing inferences that are not warranted. I protest now and forever against that counterfeit logic which presumes that because I do not want a negro woman for a slave, I do necessarily want her for a wife. My understanding is that I need not have her for either; but, as God made us separate, we can leave one another alone, and do one another much good thereby. There are white men enough to marry all the white women, and enough black men to marry all the black women, and in God's name let them be so married. The judge regales us with the terrible enormities that take place by the mixture of races; that the inferior race bears the superior down. Why, judge, if we do not let them get together in the Territories, they won't mix there. [*A voice: "Three cheers for Lincoln!" The cheers were given with a hearty good will.*] I should say at least that that is a self-evident truth.

Now, sirs, for the purpose of squaring things with this idea of "don't care if slavery is voted up or voted down," for sustaining the Dred Scott decision, for holding that the Declaration of Independence did not mean anything at all, we have Judge Douglas giving his exposition of what the Declaration of Independence means, and we have him saying that the people of America are equal to the people of England. According to his construction, you Germans are not connected with it. Now I ask you, in all soberness, if all these things, if indulged in, if ratified, if confirmed and indorsed, if taught to our children, and repeated to them, do not tend to rub out the sentiment of liberty in the country, and to transform this Government into a government of some other form? Those arguments that are made, that the inferior race are to be treated with as much allowance as they are capable of enjoying; that as much is to be done for them as their condition will allow—what are these arguments? They are the arguments that kings have made for enslaving the people in all ages of the world. You will find that all the arguments in favor of kingcraft were of this class; they always bestrode the necks of the people—not that they wanted to do it, but because the people were better off for being ridden. That is their argument, and this argument of the judge is the same old serpent that says, You work and I eat, you toil and I will enjoy the fruits of it. Turn it whatever way you will—whether it come from the mouth of a king, an excuse for enslaving the people of his country, or from the mouth of men of one race as a reason for enslaving the men of another race, it is all the same old serpent, and I hold if that

course of argumentation that is made for the purpose of convincing the public mind that we should not care about this should be granted, it does not stop with the negro. I should like to know—taking this old Declaration of Independence, which declares that all men are equal upon principle, and making exceptions to it—where will it stop? If one man says it does not mean a negro, why not another say it does not mean some other man? If that Declaration is not the truth, let us get the statute-book in which we find it, and tear it out! Who is so bold as to do it? If it is not true, let us tear it out [*cries of "No, no!"*]. Let us stick to it, then; let us stand firmly by it, then.

It may be argued that there are certain conditions that make necessities and impose them upon us, and to the extent that a necessity is imposed upon a man he must submit to it. I think that was the condition in which we found ourselves when we established this Government. We had slaves among us; we could not get our Constitution unless we permitted them to remain in slavery; we could not secure the good we did secure if we grasped for more; but, having by necessity submitted to that much, it does not destroy the principle that is the charter of our liberties. Let that charter stand as our standard.

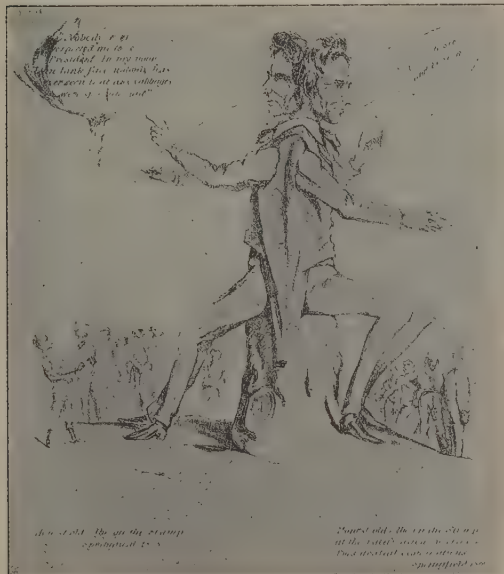
It is said in one of the admonitions of our Lord, "Be ye perfect even as your Father which is in heaven is perfect." The Saviour, I suppose, did not expect that any human creature could be perfect as the Father in heaven; but he set up this standard, and he who did most toward reaching it attained the highest degree of moral perfection. So I say in relation to the principle that all men are created equal, let it be as nearly reached as we can. If we cannot give freedom to every creature let us do nothing that will impose slavery upon any other creature. Let us then turn this Government back into the channel in which the framers of the Constitution originally placed it. If we do not do so we are tending in the contrary direction that our friend Judge Douglas proposes—not intentionally—working in the traces that tend to make this one universal slave nation. He is one that runs in that direction, and as such I resist him.

LINCOLN-DOUGLAS DEBATES

On July 24 Mr. Lincoln challenged Senator Douglas to a debate before the same audiences. Senator Douglas accepted the challenge and stipulated that the de-

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now so ill-formed, grows brilliant and expressive, and you have before you a man of rare power and of strong magnetic influence. He takes the people every time, and there is no getting away from his sturdy good sense, his unaffected sincerity, and



"HONEST OLD ABE" ON THE STUMP

From the collection of the New York Historical Society

the unceasing play of his good humor, which accompanies his close logic and smoothes the way to conviction. Listening to him on Saturday, calmly and unprejudiced, I was convinced that he had no superior as a stump-speaker. He is clear, concise, and logical, his language is eloquent and at perfect command. He is altogether a more fluent speaker than Douglas, and

bates be held in central towns in each congressional district in the State. To this arrangement Lincoln agreed.

The national importance of this contest is indicated by the fact that newspapers from as far away from the arena as New York sent special representatives to report the debates. One of these, Chester P. Dewey, of the New York *Evening Post*, thus described the contestants as they appeared at the first debate at Ottawa, August 21:

"LITTLE DUG" AND "LONG ABE"

Two men presenting wider contrasts could hardly be found, as the representatives of the two great parties. Everybody knows Douglas, a short, thick-set, burly man with large, round head, heavy hair, dark complexion, and fierce bulldog look. Strong in his own real power and skilled by a thousand conflicts in all the strategy of a hand-to-hand or a general fight; of towering ambition, restless in his determined desire for notoriety, proud, defiant, arrogant, audacious, unscrupulous, "Little Dug" ascended the platform and looked out impudently and carelessly on the immense throng which surged and struggled before him. A native of Vermont, reared on a soil where no slave stood, he came to Illinois a teacher, and from one post to another had risen to his present eminence. Forgetful of the ancestral hatred of slavery to which he was the heir, he had come . . . to owe much of his fame to continued subservience to Southern influence.

The other—Lincoln—is a native of Kentucky, of poor white parentage, and, from his cradle, has felt the blighting influence of the dark and cruel shadow which rendered labor dishonorable and kept the poor in poverty, while it advanced the rich in their possessions. . . . In every relation of life, socially and to the State, Mr. Lincoln has been always the pure and honest man. In physique he is the opposite to Douglas. Built on the Kentucky type, he is very tall, slender, and angular, awkward even in gait and attitude. His face is sharp, large-featured, and unprepossessing. His eyes are deep-set under heavy brows, his forehead is high and retreating, and his hair is dark and heavy. In repose I must confess that "Long Abe's" appearance is not comely. But stir him up and the fire of his genius plays on every feature. His eye glows and sparkles; every lineament,

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in all the arts of debate fully his equal. The Republicans of Illinois have chosen a champion worthy of their heartiest support, and fully equipped for the conflict with the great Squatter Sovereign.

SLAVERY IN THE TERRITORIES

DEBATES BETWEEN ABRAHAM LINCOLN AND SENATOR DOUGLAS

First Debate—At Ottawa, August 21, 1858

Senator Douglas opened with the charge that Lincoln, a Whig, and Trumbull, a Democrat, had entered into a conspiracy in 1854 to break up both these parties and form a new Abolition party out of the fragments under the name and disguise of Republican. Their personal reward was to be the representation of their State in the Senate.

In pursuance of the arrangement, the parties met at Springfield in October, 1854, and proclaimed a platform for their new Republican party, which was thus to be constructed. Here is the most important and material resolution of this Abolition platform:

Resolved, That the times imperatively demand the reorganization of parties, and, repudiating all previous party attachments, names, and predilections, we unite ourselves together in defence of the liberty and Constitution of the country, and will hereafter cooperate as the Republican party, pledged to the accomplishment of the following purposes: To bring the administration of the government back to the control of first principles; to restore Nebraska and Kansas to the position of free Territories; that, as the Constitution of the United States vests in the States, and not in Congress, the power to legislate for the extradition of fugitives from labor, to repeal and entirely abrogate the Fugitive Slave Law; to restrict slavery to those States in which it exists; to prohibit the admission of any more slave States into the Union; to abolish slavery in the District of Columbia; to exclude slavery from all the Territories over which the general Government has exclusive jurisdiction; and to resist the acquisition of any more Territories unless the practice of slavery therein forever shall have been prohibited.

[The reading of this resolution was punctuated with applause from a part of the audience.]

Now, gentlemen, your Black Republicans have cheered every one of those propositions, and yet I venture to say that you cannot get Mr. Lincoln to come out and say that he is now in favor

of each one of them. That these propositions, one and all, constitute the platform of the Black Republican party of this day, I have no doubt; and when you were not aware for what purpose I was reading them, your Black Republicans cheered them as good Black Republican doctrines. My object in reading these resolutions was to put the question to Abraham Lincoln this day whether he now stands and will stand by each article in that creed and carry it out. I desire to know whether Mr. Lincoln to-day stands as he did in 1854, in favor of the unconditional repeal of the Fugitive Slave Law. I desire him to answer whether he stands pledged to-day, as he did in 1854, against the admission of any more slave States into the Union, even if the people want them. I want to know whether he stands pledged against the admission of a new State into the Union with such a constitution as the people of that State may see fit to make. I want to know whether he stands to-day pledged to the abolition of slavery in the District of Columbia. I desire him to answer whether he stands pledged to the prohibition of the slave trade between the different States. I desire to know whether he stands pledged to prohibit slavery in all the Territories of the United States, north as well as south of the Missouri compromise line. I desire him to answer whether he is opposed to the acquisition of any more territory unless slavery is prohibited therein. I ask Abraham Lincoln to answer these questions, in order that, when I trot him down to lower Egypt,¹ I may put the same questions to him. My principles are the same everywhere. I can proclaim them alike in the North, the South, the East, and the West. My principles will apply wherever the Constitution prevails and the American flag waves. I desire to know whether Mr. Lincoln's principles will bear transplanting from Ottawa to Jonesboro?

Here Senator Douglas disclaimed any intention of expressing personal disrespect for his opponent. They had known each other from the days when Douglas was a struggling school teacher and Lincoln a "grocery-keeper." He said incidentally that Lincoln "could ruin more liquor than all the boys of the town together."

Mr. Lincoln served with me in the legislature in 1836, when we both retired, and he subsided, or became submerged, and he was lost sight of as a public man for some years. In 1846,

¹ The southern end of Illinois, which had been settled from the South, and was therefore pro-slavery in sentiment.

a free State. Suppose this doctrine of uniformity preached by Mr. Lincoln, that the States should all be free or all be slave, had prevailed, what would have been the result? Of course, the twelve slaveholding States would have overruled the one free State and slavery would have been fastened by a constitutional provision on every inch of the American republic instead of being left, as our fathers wisely left it, to each State to decide for itself. Here I assert that uniformity in the local laws and institutions of the different States is neither possible nor desirable. If uniformity had been adopted when the Government was established it must inevitably have been the uniformity of slavery everywhere, or else the uniformity of negro citizenship and negro equality everywhere.

We are told by Lincoln that he is utterly opposed to the Dred Scott decision and will not submit to it, for the reason that, he says, it deprives the negro of the rights and privileges of citizenship. That is the first and main reason which he assigns for his warfare on the Supreme Court of the United States and its decision. I ask you, are you in favor of conferring upon the negro the rights and privileges of citizenship? Do you desire to strike out of our State constitutions that clause which keeps slaves and free negroes out of the State and allow the free negroes to flow in and cover your prairies with black settlements? Do you desire to turn this beautiful State into a free negro colony, in order that, when Missouri abolishes slavery she can send one hundred thousand emancipated slaves into Illinois to become citizens and voters on an equality with yourselves? If you desire negro citizenship, if you desire to allow them to come into the State and settle with the white man, if you desire them to vote on an equality with yourselves and to make them eligible to office, to serve on juries, and to adjudge your rights, then support Mr. Lincoln and the Black Republican party who are in favor of the citizenship of the negro. For one, I am opposed to negro citizenship in any and every form. I believe this government was made on the white basis. I believe it was made by white men for the benefit of white men and their posterity forever, and I am in favor of confining citizenship to white men, men of European birth and descent, instead of conferring it upon negroes, Indians, and other inferior races.

Mr. Lincoln, following the example and lead of all the little Abolition orators who go around and lecture in the basements of schools and churches, reads from the Declaration of Independence that all men were created equal, and then asks how can

when Wilmot introduced his celebrated proviso and the Abolition tornado swept over the country, Lincoln again turned up as a member of Congress from the Sangamon district. I was then in the Senate of the United States, and was glad to welcome my old friend and companion. While in Congress he distinguished himself by his opposition to the Mexican war, taking the side of the common enemy against his own country; and, when he returned home he found that the indignation of the people followed him everywhere, and he was again submerged or obliged to retire into private life, forgotten by his former friends. He came up again in 1854, just in time to make this Abolition or Black Republican platform, in company with Giddings, Lovejoy, Chase, and Fred Douglass, for the Republican party to stand upon.

Having formed this new party for the benefit of deserters from Whiggery and deserters from Democracy, and, having laid down the Abolition platform which I have read, Lincoln now takes his stand and proclaims his Abolition doctrines.

Here the speaker read from Lincoln's speech at Springfield, on June 16, the paragraph upon "the house divided against itself." At the close there were cheers and cries of "Good, good!" from the audience.

I am delighted to hear you Black Republicans say "good." I have no doubt that doctrine expresses your sentiments, and I will prove to you now, if you listen to me, that it is revolutionary and destructive of the existence of this Government. Why can it not exist divided into free and slave States? Why can it not exist on the same principles on which our fathers made it? They knew when they framed the Constitution that, in a country as wide and broad as this, with such a variety of climate, production, and interest, the people necessarily required different laws and institutions in different localities. They knew that the laws and regulations which would suit the granite hills of New Hampshire would be unsuited to the rice plantations of South Carolina, and they therefore provided that each State should retain its own legislature and its own sovereignty, with the full and complete power to do as it pleased within its own limits, in all that was local and not national. One of the reserved rights of the States was the right to regulate the relations between master and servant, on the slavery question. At the time the Constitution was framed there were thirteen States in the Union, twelve of which were slaveholding States and one

you deprive a negro of that equality which God and the Declaration of Independence award to him? He and they maintain that negro equality is guaranteed by the laws of God and that it is asserted in the Declaration of Independence. If they think so, of course they have a right to say so, and so vote. I do not question Mr. Lincoln's conscientious belief that the negro was made his equal, and, hence, is his brother; but, for my own part, I do not regard the negro as my equal, and positively deny that he is my brother or any kin to me whatever. Lincoln holds that the negro was born his equal and yours and that he was endowed with equality by the Almighty, and that no human law can deprive him of these rights which were guaranteed to him by the Supreme Ruler of the universe. Now, I do not believe that the Almighty ever intended the negro to be the equal of the white man. If he did he has been a long time demonstrating the fact. For thousands of years the negro has been a race upon the earth and during all that time, in all latitudes and climates, wherever he has wandered or been taken, he has been inferior to the race which he has there met. He belongs to an inferior race, and must always occupy an inferior position. I do not hold that because the negro is our inferior therefore he ought to be a slave. By no means can such a conclusion be drawn from what I have said. On the contrary, I hold that humanity and Christianity both require that the negro shall have and enjoy every right, every privilege, and every immunity consistent with the safety of the society in which he lives. On that point, I presume, there can be no diversity of opinion.

The question then arises: what rights and privileges are consistent with the public good? This is a question which each State and each Territory must decide for itself—Illinois has decided it for herself. We have provided that the negro shall not be a slave, and we have also provided that he shall not be a citizen, but protect him in his civil rights, in his life, his person, and his property, only depriving him of all political rights whatsoever, and refusing to put him on an equality with the white man. That policy of Illinois is satisfactory to the Democratic party and to me, and, if it were to the Republicans, there would then be no question upon the subject; but the Republicans say that he ought to be made a citizen, and when he becomes a citizen he becomes your equal, with all your rights and privileges. They assert the Dred Scott decision to be monstrous because it denies that the negro is or can be a citizen under the Constitution.

Now, I hold that each and every State of this Union is a sovereign power, with the right to do as it pleases upon this question of slavery and upon all its domestic institutions. Slavery is not the only question which comes up in this controversy. There is a far more important one to you, and that is, what shall be done with the free negro? We have settled the slavery question as far as we are concerned; we have prohibited it in Illinois forever, and, in doing so, I think we have done wisely, and there is no man in the State who would be more strenuous in his opposition to the introduction of slavery than I would. We must leave each and every other State to decide for itself the same question. In relation to the policy to be pursued toward the free negroes, we have said that they shall not vote; while Maine, on the other hand, has said that they shall vote. Maine is a sovereign State, and has the power to regulate the qualification of voters within her limits. I would never consent to confer the right of voting and of citizenship upon a negro, but still I am not going to quarrel with Maine for differing from me in opinion. Let Maine take care of her own negroes and fix the qualifications of her own voters to suit herself without interfering with Illinois, and Illinois will not interfere with Maine.

Now, my friends, if we will only act conscientiously and rigidly upon this great principle of popular sovereignty which guarantees to each State and Territory the right to do as it pleases on all things, local and domestic, instead of Congress interfering, we will continue at peace one with another. Why should Illinois be at war with Missouri, or Kentucky with Ohio, or Virginia with New York, merely because their institutions differ. Our fathers intended that our institutions should differ. They knew that the North and the South, having different climates, productions, and interests, required different institutions. This doctrine of Mr. Lincoln of uniformity among the institutions of the different States is a new doctrine, never dreamed of by Washington, Madison, or the framers of this Government. Mr. Lincoln and the Republican party set themselves up as wiser than these men who made this Government which has flourished for seventy years under the principle of popular sovereignty, recognizing the right of each State to do as it pleased. Under that principle we have grown from a nation of three or four millions to a nation of about thirty millions of people; we have crossed the Allegheny Mountains and filled up the whole Northwest, turning the prairie into a garden, and building up churches and schools, thus

spreading civilization and Christianity where before there was nothing but savage barbarism. Under that principle we have become, from a feeble nation, the most powerful on the face of the earth, and, if we only adhere to that principle, we can go forward increasing in territory, in power, in strength, and in glory until the Republic of America shall be the north star that shall guide the friends of freedom throughout the civilized world. And why can we not adhere to the great principle of self-government upon which our institutions were originally based? I believe that this new doctrine preached by Mr. Lincoln and his party will dissolve the Union if it succeeds. They are trying to array all the Northern States in one body against the South, to excite a sectional war between the free States and the slave States, in order that the one or the other may be driven to the wall.

MR. LINCOLN.—When a man hears himself somewhat misrepresented it provokes him—at least, I find it so with myself; but when misrepresentation becomes very gross and palpable, it is more apt to amuse him. The first thing I see fit to notice is the fact that Judge Douglas alleges that Judge Trumbull and myself made an arrangement in 1854 by which I was to have the place of General Shields in the United States Senate, and Judge Trumbull was to have the place of Judge Douglas. Now, all I have to say upon that subject is that I think no man—not even Judge Douglas—can prove it, because it is not true. I have no doubt he is “conscientious” in saying it.

As to those resolutions that he took such a length of time to read as being the platform of the Republican party in 1854, I say I never had anything to do with them, and I think Trumbull never had. Judge Douglas cannot show that either of us ever did have anything to do with them. It is true the convention did place my name, though without authority, upon the committee, and afterward wrote me to attend the meeting of the committee, but I refused to do so, and I never had anything to do with that organization.

The speaker here read a portion of his speech at Peoria, in 1854, in which he had said:

“When our brethren of the South remind us of their constitutional rights, I acknowledge them, not grudgingly, but fully and fairly; and I would give them any legislation for the reclaiming of their fugitives which should not, in its stringency, be more likely to carry a free man into slavery than our ordinary criminal laws are to hang an innocent one.”

V—9

Judge Douglas has got my answer on the Fugitive Slave Law.

Anything that argues me into the Judge's idea of perfect social and political equality with the negro is but a specious and fantastic arrangement of words, by which a man can prove a horse-chestnut to be a chestnut horse. I will say here, while upon this subject, that I have no purpose, either directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so. I have no purpose to introduce political and social equality between the white and the black races. There is a physical difference between the two which, in my judgment, will probably forever forbid their living together upon the footing of perfect equality; and, inasmuch as it becomes a necessity that there must be a difference, I, as well as Judge Douglas, am in favor of the race to which I belong having the superior position. I have never said anything to the contrary, but I hold that, notwithstanding all this, there is no reason in the world why the negro is not entitled to all the natural rights enumerated in the Declaration of Independence—the right to life, liberty, and the pursuit of happiness. I hold that he is as much entitled to these as the white man. I agree with Judge Douglas he is not my equal in many respects—certainly not in color, perhaps not in moral or intellectual endowment. But, in the right to eat the bread, without the leave of anybody else, which his own hand earns, he is my equal and the equal of Judge Douglas, and the equal of every living man.

Now I pass on to consider one or two more of these little follies. The judge is woefully at fault when he charges me at the time when I was in Congress with having opposed our soldiers who were fighting in the Mexican War. You remember I was an Old Whig, and whenever the Democratic party tried to get me to vote that the war had been righteously begun by the President, I would not do it. But whenever they asked for any money, or land-warrants, or anything to pay the soldiers there, during all that time, I gave the same vote that Judge Douglas did. You can think as you please as to whether that was consistent. Such is the truth; and the judge has the right to make all he can out of it. But, when he, by a general charge, conveys the idea that I withheld supplies from the soldiers who were fighting in the Mexican War, or did anything else to hinder the soldiers, he is, to say the least, grossly and altogether mistaken, as a consultation of the records will prove to him.

The judge has read from my speech in Springfield in which I say that “a house divided against itself cannot stand.”

When he undertakes to say that, because I think this nation, so far as the question of slavery is concerned, will all become one thing or all the other, I am in favor of bringing about a dead uniformity in the various States in all their institutions, he argues erroneously. The great variety of the local institutions in the States, springing from differences in the soil, differences in the face of the country, and in the climate, are bonds of union. They do not make “a house divided against itself,” but they make a house united. If they produce in one section of the country what is called for by the wants of another section, and this other section can supply the wants of the first, they are not matters of discord but bonds of union, true bonds of union. But can this question of slavery be considered as among these varieties in the institutions of the country? I leave it to you to say whether, in the history of our Government, this institution of slavery has not always failed to be a bond of union, and, on the contrary, been an apple of discord and an element of division in the house. I ask you to consider whether, so long as the moral constitution of men's minds shall continue to be the same, after this generation and assemblage shall sink into the grave, and another race shall arise with the same moral and intellectual development we have—whether, if that institution is standing in the same irritating position in which it now is, it will not continue an element of division?

When the judge reminds me that the institution of slavery has existed for eighty years in some States, and yet it does not exist in some others, I agree to the fact, and I account for it by looking at the position in which our fathers originally placed it—restricting it from the new Territories where it had not gone, and legislating to cut off its source by the abrogation of the slave trade, thus putting the seal of legislation against its spread. The public mind did rest in the belief that it was in the course of ultimate extinction. But lately, I think—and in this I charge nothing on the judge's motives—lately, I think, that he, and those acting with him, have placed that institution on a new basis, which looks to the perpetuity and nationalization of slavery. And while it is placed upon this new basis, I say, and I have said, that I believe we shall not have peace upon the question until the opponents of slavery arrest the further spread of it and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction; or, on the other hand, that its advocates will push it forward until it shall be

come alike lawful in all the States, old as well as new, North as well as South. Now, I believe if we could arrest the spread, and place it where Washington and Jefferson and Madison placed it, it would be in the course of ultimate extinction and the public mind would, as for eighty years past, believe that it was in the course of ultimate extinction. The crisis would be past and the institution might be let alone for a hundred years—if it should live so long—in the States where it exists, yet it would be going out of existence in the way best for both the black and the white races. [A voice: "Then do you repudiate popular sovereignty?"] Well, then, let us talk about popular sovereignty! What is popular sovereignty? Is it the right of the people to have slavery or not have it, as they see fit, in the Territories? I will state—and I have an able man to watch me—my understanding is that popular sovereignty, as now applied to the question of slavery, does allow the people of a Territory to have slavery if they want to, but does not allow them not to have it if they do not want it. I do not mean that, if this vast concourse of people were in a Territory of the United States, any one of them would be obliged to have a slave if he did not want one; but I do say that, as I understand the Dred Scott decision, if any one man wants slaves, all the rest have no way of keeping that one man from holding them.

Can it be true, that placing this institution upon the original basis—the basis upon which our fathers placed it—can have any tendency to set the Northern and the Southern States at war with one another, or that it can have any tendency to make the people of Vermont raise sugar-cane because they raise it in Louisiana, or that it can compel the people of Illinois to cut pine logs on the Grand Prairie, where they will not grow, because they cut pine logs in Maine, where they do grow? The judge says this is a new principle started in regard to this question. Does the judge claim that he is working on the plan of the founders of the Government? I think he says in some of his speeches—indeed, I have one here now—that he saw evidence of a policy to allow slavery to be south of a certain line while north of it it should be excluded, and he saw an indisposition on the part of the country to stand upon that policy, and, therefore, he set about studying the subject upon original principles and upon original principles he got up the Nebraska bill! I am fighting it upon these "original principles"—fighting it in the Jeffersonian, Washingtonian, and Madisonian fashion.

Now, my friends, I wish you to attend for a little while to one or two other things in that Springfield speech. My main

object was to show, so far as my humble ability was capable of showing to the people of this country, what I believed was the truth—that there was a tendency, if not a conspiracy, among those who have engineered this slavery question for the last four or five years, to make slavery perpetual and universal in this nation.

Now, the judge replies that he never had any talk with Judge Taney or the President of the United States with regard to the Dred Scott decision before it was made. What if Judge Douglas never did talk with Chief Justice Taney and the President before the Dred Scott decision was made; does it follow that he could not have had as perfect an understanding without talking as with it? I am not disposed to stand upon my legal advantage. I am disposed to take his denial as being like an answer in chancery, and he neither had any knowledge, information, nor belief in the existence of such a conspiracy. I am disposed to take his answer as being as broad as though he had put it in these words. And now, I ask, even if he had done so, have not I a right to prove it on him, and to offer the evidence of more than two witnesses by whom to prove it; and, if the evidence proves the existence of the conspiracy, does his broad answer, denying all knowledge, information, or belief, disturb the fact? It can only show that he was used by conspirators, and was not a leader of them.

Now, I want to ask your attention to a portion of the Nebraska bill which Judge Douglas has quoted: "It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." Thereupon Judge Douglas and others began to argue in favor of "popular sovereignty"—the right of the people to have slaves if they wanted them, and to exclude slavery if they did not want them. "But," said, in substance, a Senator from Ohio (Mr. Chase, I believe), "we more than suspect that you do not mean to allow the people to exclude slavery if they wish to; and, if you do mean it, accept an amendment which I propose expressly authorizing the people to exclude slavery."

Judge Douglas and those acting with him voted that amendment down. I now think that those men who voted it down had a real reason for doing so. They know what that reason was. It looks to us, since we have seen the Dred Scott decision pronounced, holding that, "under the Constitution," the people

cannot exclude slavery—I say it looks to outsiders, poor, simple, "amiable, intelligent gentlemen," as though the niche was left as a place to put that Dred Scott decision in, a niche which would have been spoiled by adopting the amendment. And now I say again, if this was not the reason, it will avail the judge much more calmly and good-humoredly to point out to these people what that other reason was for voting the amendment down than swelling himself up to vociferate that he may be provoked to call somebody a liar.

Again: there is in that same quotation from the Nebraska bill this clause: "It being the true intent and meaning of this bill not to legislate slavery into any Territory or State." I have always been puzzled to know what business the word "State" had in that connection. Judge Douglas knows. He put it there. He knows what he put it there for. We outsiders cannot say what he put it there for. The law they were passing was not about States, and was not making provision for States. What was it placed there for? After seeing the Dred Scott decision, which holds that the people cannot exclude slavery from a Territory, if another Dred Scott decision shall come, holding that they cannot exclude it from a State, we shall discover that, when the word was originally put there, it was in view of something which was to come in due time; we shall see that it was the other half of something. I now say again, if there is any different reason for putting it there, Judge Douglas, in a good-humored way, without calling anybody a liar, can tell what the reason was.

When the judge spoke at Clinton, he said:

I did not answer the charge [of conspiracy] before for the reason that I did not suppose there was a man in America with a heart so corrupt as to believe such a charge could be true. I have too much respect for Mr. Lincoln to suppose he is serious in making the charge.

What is this charge that the judge thinks I must have a very corrupt heart to make? It was a purpose on the part of certain high functionaries to make it impossible for the people of one State to prohibit the people of any other State from entering it with their "property," so-called, and making it a slave State. In other words, it was a charge implying a design to make the institution of slavery national. Yet the judge, in regard to the Lecompton constitution, made the very charge that he thinks I am so corrupt for uttering. We see the charge made, not merely against the editor of the *Washington Union*,¹

¹The organ of the Administration.

but all the framers of the Lecompton constitution. I recommend to Judge Douglas's consideration the question of how corrupt a man's heart must be to make such a charge.

I ask the attention of the people here assembled and elsewhere, to the course that Judge Douglas is pursuing every day as bearing upon this question of making slavery national. In the first place, what is necessary to make the institution national? Not war. There is no danger that the people of Kentucky will shoulder their muskets, and, with a young nigger stuck on every bayonet, march into Illinois and force them upon us. There is no danger of our going over there and making war upon them. Then what is necessary for the nationalization of slavery? It is simply the next Dred Scott decision. It is merely for the Supreme Court to decide that no State under the Constitution can exclude it, just as they have already decided that, under the Constitution, neither Congress nor the territorial legislature can do it. When that is decided and acquiesced in the whole thing is done. This being true, and this being the way, as I think, that slavery is to be made national, let us consider what Judge Douglas is doing every day to that end. In the first place, let us see what influence he is exerting on public sentiment. He who molds public sentiment goes deeper than he who enacts statutes or pronounces decisions, for he makes statutes and decisions possible or impossible to be executed. Now, Judge Douglas is a man of vast influence, so great that it is enough for many men to profess to believe anything when they once find out that Judge Douglas professes to believe it. Consider, also, the attitude he occupies at the head of a large party—a party which he claims has a majority of all the voters in the country.

This man sticks to a decision which forbids the people of a Territory to exclude slavery, and he does so not because he says it is right in itself—he does not give any opinion on that—but because it has been decided by the court, and, being decided by the court, he is, and you are, bound to take it in your political action as law—not that he judges at all of its merits, but because a decision of the court is to him a "Thus saith the Lord." He places it on that ground alone, and you will bear in mind that thus committing himself unreservedly to this decision commits him to the next one just as firmly as to this. It is nothing that I point out to him that his great prototype, General Jackson, did not believe in the binding force of decisions. It is nothing to him that Jefferson did not so believe. And, on the question of respect for judicial decisions, I remind

him of a piece of Illinois history, when a large party to which Judge Douglas belonged were displeased with a decision of the Supreme Court of Illinois, because they had decided that a governor could not remove a secretary of state. Judge Douglas will not deny that he was then in favor of overslaughing that decision by the mode of adding five new judges, so as to vote down the four old ones. Not only so, but it ended in the judge's sitting down on the very bench as one of the five new judges to break down the four old ones. It was in this way precisely that he got his title of judge. Now, when the judge tells me that men appointed conditionally to sit as members of a court will have to be catechised beforehand upon some subject, I say, "You know, judge; you have tried it." When he says a court of this kind will lose the confidence of all men, will be prostituted and disgraced by such a proceeding, I say, "You know best, judge; you have been through the mill."

But I cannot shake Judge Douglas's teeth loose from the Dred Scott decision. Like some obstinate animal (I mean no disrespect) that will hang on when he has once got his teeth fixed—you may cut off a leg, or you may tear away an arm, still he will not relax his hold. And so I may point out to the judge, and say that he is bespattered all over, from the beginning of his political life to the present time, with attacks upon judicial decisions—I may cut off limb after limb of his public record, and strive to wrench from him a single dictum of the court, yet I cannot divert him from it. He hangs to the last to the Dred Scott decision. These things show there is a purpose strong as death and eternity for which he adheres to this decision, and for which he will adhere to all other decisions of the same court. [A *Hibernian*: "Give us something besides Dred Scott."] Yes; no doubt you want to hear something that doesn't hurt.

Now, having spoken of the Dred Scott decision, one more word and I am done. Henry Clay, my beau ideal of a statesman, the man for whom I fought all my humble life—Henry Clay once said of a class of men who would repress all tendencies to liberty and ultimate emancipation, that they must, if they would do this, go back to the era of our independence and muzzle the cannon which thunders its annual joyous return; they must blow out the moral lights around us; they must penetrate the human soul and eradicate there the love of liberty; and then, and not till then, could they perpetuate slavery in this country! To my thinking, Judge Douglas is, by his example and vast influence, doing that very thing in this com-

of the day of our independence. He says that that kind of talk is casting a blight on the glory of this country. What is the meaning of that? That he is not in favor of each State to have the right of doing as it pleases on the slavery question? I will put the question to him again and again, and I intend to force it out of him.

All of the questions I have put to him are practical questions—questions based upon the fundamental principles of the Black Republican party; and I want to know whether he is the first, last, and only choice of a party with whom he does not agree in principle.

The Black Republican party stands pledged that they will never support Lincoln until he has pledged himself to that platform, but he cannot devise his answer; he has not made up his mind whether he will or not. He talked about everything else he could think of to occupy his hour and a half, and when he could not think of anything more to say, without an excuse for refusing to answer these questions, he sat down long before his time was out.

In relation to Mr. Lincoln's charge of conspiracy against me I have a word to say. In his second Springfield speech he stated that he intended his first speech as a charge of corruption or conspiracy against the Supreme Court of the United States, President Pierce, President Buchanan, and myself. He then said that when he made it he did not know whether it was true or not, but, inasmuch as Judge Douglas had not denied it, he repeated it as a charge of conspiracy against me, thus charging me with moral turpitude. When he put it in that form I did say that, inasmuch as he repeated the charge simply because I had not denied it, I would deprive him of the opportunity of ever repeating it again by declaring that it was in all its bearings an infamous lie.

He studied that out—prepared that one sentence with the greatest care, committed it to memory, and put it in his first Springfield speech, and now he carries that speech around and reads that sentence to show how pretty it is. His vanity is wounded because I will not go into that beautiful figure of his about the building of a house. All I have to say is that I am not green enough to let him make a charge which he acknowledges he does not know to be true, and then take up my time in answering it, when I know it to be false and nobody else knows it to be true.

There is an unpardonable presumption in a man putting himself up before thousands of people and pretending that his

munity when he says that the negro has nothing in the Declaration of Independence. Henry Clay plainly understood the contrary. Judge Douglas is going back to the era of our Revolution, and to the extent of his ability muzzling the cannon which thunders its annual joyous return. When he invites any people, willing to have slavery, to establish it, he is blowing out the moral lights around us. When he says he "cares not whether slavery is voted down or voted up"—that it is a sacred right of self-government—he is, in my judgment, penetrating the human soul and eradicating the light of reason and the love of liberty in this American people. And now I will only say that when, by all these means and appliances, Judge Douglas shall succeed in bringing public sentiment to an exact accordance with his own views—when these vast assemblages shall echo back all these sentiments—when they shall come to repeat his views and to avow his principles, and to say all that he says on these mighty questions—then it needs only the formality of the second Dred Scott decision, which he indorses in advance, to make slavery alike lawful in all the States—old as well as new, North as well as South.

SENATOR DOUGLAS.—The first point to which I will call your attention is as to what I said about the organization of the Republican party in 1854, and the platform that was formed on the 5th of October of that year, and I will then put the question to Mr. Lincoln whether or not he approves of each article in that platform and ask for a specific answer. I did not charge him with being a member of the committee which reported that platform. I charged that that platform was the platform of the Republican party adopted by them. I want to remind Mr. Lincoln that, on the very day he made his speech in reply to me, preaching up this same doctrine of negro equality under the Declaration of Independence, this Republican party met in convention at the same place. This denial of his that he did not act on the committee is a miserable quibble to avoid the main issue, which is that this Republican platform declares in favor of the unconditional repeal of the Fugitive Slave Law. He has evaded my questions on this and every other issue of that platform.

It is true he gives the Abolitionists to understand by a hint that he would not vote to admit such a State if slavery were one of its institutions. And why? He goes on to say that the man who would talk about giving each State the right to have slavery or not, as it pleased, was akin to the man who would muzzle the guns which thundered forth the annual joyous return

ipse dixit, without proof, without fact, and without truth, is enough to bring down and destroy the purest and best of living men.

Mr. Lincoln wants to know why I voted against Mr. Chase's amendment to the Nebraska bill. I will tell him. In the first place, the bill already conferred all the power which Congress had, by giving the people the whole power over the subject. Chase offered a proviso that they might abolish slavery, which, by implication, would convey the idea that they could prohibit by not introducing that institution. General Cass asked him to modify his amendment so as to provide that the people might either prohibit or introduce slavery and thus make it fair and equal. Chase refused to so modify his proviso and then General Cass and all the rest of us voted it down.

Mr. Lincoln wants to know why the word "State," as well as "Territory," was put into the Nebraska bill? I will tell him. It was put there to meet just such false arguments as he has been adducing. That, first, not only the people of the Territories should do as they pleased, but that, when they come to be admitted as States, they should come into the Union with or without slavery, as the people determined. I meant to knock in the head this Abolition doctrine of Mr. Lincoln's that there shall be no more slave States, even if the people want them.

Mr. Lincoln does not want to avow his principles. I do want to avow mine, as clear as sunlight in midday. Democracy is founded upon the eternal principles of right. The plainer these principles are avowed before the people the stronger will be the support which they will receive. I only wish I had the power to make them so clear that they would shine in the heavens for every man, woman, and child to read. The first of those principles that I would proclaim would be in opposition to Mr. Lincoln's doctrine of uniformity between the different States, and I would declare instead the sovereign right of each State to decide the slavery question as well as all other domestic questions for themselves, without interference from any other State or power whatsoever.

When that principle is recognized you will have peace and harmony and fraternal feeling between all the States of this Union; until you do recognize that doctrine there will be sectional warfare agitating and distracting the country. What does Mr. Lincoln propose? He says that the Union cannot exist divided into free and slave States. If it cannot endure thus divided then he must strive to make them all free or all slave, which will inevitably bring about a dissolution of the Union.

Second Debate—At Freeport, August 27, 1858

Mr. Lincoln opened the second debate by answering Senator Douglas's questions put to him at Ottawa.

Question 1. "I desire to know whether Lincoln to-day stands as he did in 1854, in favor of the unconditional repeal of the Fugitive Slave Law?"

Answer. I do not now, nor ever did, stand in favor of the unconditional repeal of the Fugitive Slave Law.

Q. 2. "I desire him to answer whether he stands pledged to-day, as he did in 1854, against the admission of any more slave States into the Union, even if the people want them?"

A. I do not now, nor ever did, stand pledged against the admission of any more slave States into the Union.

Q. 3. "I want to know whether he stands pledged against the admission of a new State into the Union with such a constitution as the people of that State may see fit to make?"

A. I do not stand pledged against the admission of a new State into the Union with such a constitution as the people of that State may see fit to make.

Q. 4. "I want to know whether he stands to-day pledged to the abolition of slavery in the District of Columbia?"

A. I do not stand to-day pledged to the abolition of slavery in the District of Columbia.

Q. 5. "I desire him to answer whether he stands pledged to the prohibition of the slave trade between the different States?"

A. I do not stand pledged to the prohibition of the slave trade between the different States.

Q. 6. "I desire to know whether he stands pledged to prohibit slavery in all the Territories of the United States, north as well as south of the Missouri compromise line?"

A. I am impliedly, if not expressly, pledged to a belief in the right and duty of Congress to prohibit slavery in all the United States Territories.

Q. 7. "I desire him to answer whether he is opposed to the acquisition of any new territory unless slavery is first prohibited therein?"

A. I am not generally opposed to honest acquisition of territory; and, in any given case, I would or would not oppose such acquisition, accordingly as I might think such acquisition would or would not aggravate the slavery question among ourselves.

With these three conditions I confess I would be exceedingly glad to see Congress abolish slavery in the District of Columbia, and, in the language of Henry Clay, "sweep from our capital that foul blot upon our nation."

In regard to the fifth interrogatory I must say here that, as to the question of the abolition of the slave trade between the different States, I can truly answer, as I have, that I am pledged to nothing about it. That question has never been prominently enough before me to induce me to investigate whether we really have the constitutional power to do it. I could investigate it if I had sufficient time to bring myself to a conclusion upon that subject, but I have not done so, and I say so frankly to you here and to Judge Douglas. I must say, however, that, if I should be of opinion that Congress does possess the constitutional power to abolish the slave trade among the different States, I should still not be in favor of the exercise of that power unless upon some conservative principle as I conceive it, akin to what I have said in relation to the abolition of slavery in the District of Columbia.

My answer as to whether I desire that slavery should be prohibited in all the Territories of the United States is full and explicit within itself and cannot be made clearer by any comments of mine. So I suppose in regard to the question whether I am opposed to the acquisition of any more territory unless slavery is first prohibited therein,¹ my answer is such that I could add nothing by way of illustration, or making myself better understood, than the answer which I have placed in writing.

Now in all this the judge has me, and he has me on the record. I suppose he had flattered himself that I was really entertaining one set of opinions for one place and another set for another place—that I was afraid to say at one place what I uttered at another. What I am saying here I suppose I say to a vast audience as strongly tending to Abolitionism as any audience in the State of Illinois, and I believe I am saying that which, if it would be offensive to any persons and render them enemies to myself, would be offensive to persons in this audience.

I now proceed to propound to the judge the interrogatories so far as I have framed them.

Question 1. If the people of Kansas shall, by means entirely unobjectionable in all other respects, adopt a State constitution, and ask admission into the Union under it, before they have the requisite number of inhabitants according to the English

¹ The proposed annexation of Cuba is referred to.

Now, my friends, it will be perceived I have answered in strict accordance with the interrogatories as he has framed them. I am really disposed to take up at least some of these questions and state what I really think upon them.

As to the first one, in regard to the Fugitive Slave Law, I have never hesitated to say, and I do not now hesitate to say, that I think, under the Constitution of the United States, the people of the Southern States are entitled to a congressional Fugitive Slave Law. Having said that I have had nothing to say in regard to the existing Fugitive Slave Law further than that I think it should have been framed so as to be free from some of the objections that pertain to it, without lessening its efficiency. And, inasmuch as we are not now in an agitation in regard to an alteration or modification of that law, I would not be the man to introduce it as a new subject of agitation upon the general question of slavery.

In regard to the other question of whether I am pledged to the admission of any more slave States into the Union, I state to you very frankly that I would be exceedingly sorry ever to be put in a position of having to pass upon that question. I should be exceedingly glad to know that there would never be another slave State admitted into the Union; but, I must add, that, if slavery shall be kept out of the Territories during the territorial existence of any one given Territory, and then the people shall, having a fair chance and a clear field, when they come to adopt the Constitution, do such an extraordinary thing as to adopt a slave constitution, uninfluenced by the actual presence of the institution among them, I see no alternative, if we own the country,¹ but to admit them into the Union.

The third interrogatory is answered by the answer to the second, it being, as I conceive, the same as the second.

The fourth one is in regard to the abolition of slavery in the District of Columbia. In relation to that I have my mind very distinctly made up. I should be exceedingly glad to see slavery abolished in the District of Columbia. I believe that Congress possesses the constitutional power to abolish it. Yet, as a member of Congress, I should not, with my present views, be in favor of endeavoring to abolish slavery in the District of Columbia unless it would be upon these conditions: First, that the abolition should be gradual; second, that it should be on a vote of the majority of qualified voters in the District; and, third, that compensation should be made to unwilling owners.

¹ A qualification intended to exempt Cuba, whose annexation was contemplated by President Buchanan.

bill—some ninety-three thousand—will you vote to admit them?

Q. 2. Can the people of a United States Territory in any lawful way, against the wish of any citizen of the United States, exclude slavery from its limits prior to the formation of a State constitution?

Q. 3. If the Supreme Court of the United States shall decide that States cannot exclude slavery from their limits, are you in favor of acquiescing in, adopting, and following such decision as a rule of political action?

Q. 4. Are you in favor of acquiring additional territory, in disregard of how such acquisition may affect the nation on the slavery question?

As introductory to the interrogatories which Judge Douglas propounded to me at Ottawa he read a set of resolutions which he said Judge Trumbull and myself had participated in adopting, in the first Republican State convention, held at Springfield, in October, 1854. He insisted that I and Judge Trumbull, and perhaps the entire Republican party, were responsible for the doctrines contained in the resolutions, and I understand that it was from these resolutions that he deduced the interrogatories. Now I say here to-day that I do not answer his interrogatories because of their springing at all from that set of resolutions which he read. I answered them because Judge Douglas thought fit to ask them. I do not now, nor ever did, recognize any responsibility upon myself in that set of resolutions. When I replied to him on that occasion I assured him that I never had anything to do with them. I really did not know but that they had been the resolutions passed, as the judge represented they had been. I did not question his word, for I could not bring myself to suppose that Judge Douglas could say what he did upon this subject without knowing that it was true. Now it turns out that he had got hold of some resolutions passed at some convention or public meeting in Kane County. I can account for the judge's action only upon the supposition that that evil genius which has attended him through his life, giving to him an apparent astonishing prosperity—such as to lead very many good men to doubt there being any advantage in virtue over vice—has at last made up its mind to forsake him.

I have been in the habit of charging as a matter of belief on my part that, in the introduction of the Nebraska bill into Congress, there was a conspiracy to make slavery perpetual and national.

Judge Douglas says he characterized it as a falsehood as far as I implicated his moral character in that transaction. Now, I

can conceive it possible for men to conspire to do a good thing, and I really find nothing in Judge Douglas's course of arguments that is contrary to or inconsistent with his belief of a conspiracy to nationalize and spread slavery as being a good and blessed thing, and so I hope he will understand that I do not at all question but that in all this matter he is entirely "conscientious."

I have argued and said that for men who did intend that the people of the Territory should have the right to exclude slavery absolutely and unconditionally, the voting down of Chase's amendment is wholly inexplicable. What reason does the judge give for the vote? That when Chase came forward with his amendment expressly authorizing the people to exclude slavery from the limits of every Territory, General Cass proposed to Chase, if he (Chase) would add to his amendment that the people should have the power to introduce or exclude, they would let it go.

This is absolutely all of his reply. And because Chase would not do that they voted his amendment down. Well, it turns out, I believe, upon examination, that General Cass took some part in the little running debate upon that amendment, and then ran away and did not vote on it at all. So confident, as I think, was General Cass that there was a snake somewhere about, he chose to run away from the whole thing.

Senator Douglas chose to reply to his opponent's interrogatories before analyzing Lincoln's replies to his own.

First, he desires to know if the people of Kansas shall form a constitution by means entirely proper and unobjectionable and ask admission into the Union as a State, before they have the requisite population for a member of Congress, whether I will vote for that admission. In reference to Kansas it is my opinion that, as she has population enough to constitute a slave State, she has people enough for a free State. I will not make Kansas an exceptional case to the other States of the Union. I hope Mr. Lincoln is satisfied with my answer; and now I would like to get his answer to his own interrogatory—whether or not he will vote to admit Kansas before she has the requisite population. I want to know whether he will vote to admit Oregon before that Territory has the requisite population. Mr. Trumbull will not, and the same reason that commits Mr. Trumbull against the admission of Oregon commits him against Kansas, even if

she should apply for admission as a free State. I would like Mr. Lincoln to answer this question. I would like him to take his own medicine. If he differs with Mr. Trumbull, let him answer his argument against the admission of Oregon, instead of poking questions at me.

The next question propounded to me by Mr. Lincoln is: Can the people of a Territory in any lawful way, against the wishes of any citizen of the United States, exclude slavery from their limits prior to the formation of a State constitution? I answer emphatically, as Mr. Lincoln has heard me answer a hundred times from every stump in Illinois, that, in my opinion, the people of a Territory can, by lawful means, exclude slavery from their limits prior to the formation of a State constitution. It matters not what way the Supreme Court may hereafter decide as to the abstract question whether slavery may or may not go into a Territory under the Constitution, the people have the lawful means to introduce it or exclude it as they please, for the reason that slavery cannot exist a day or an hour anywhere unless it is supported by local regulations. Those police regulations can only be established by the local legislature, and, if the people are opposed to slavery, they will elect representatives to that body who will, by unfriendly legislation, effectually prevent the introduction of it into their midst. If, on the contrary, they are for it, their legislation will favor its extension. Hence, no matter what the decision of the Supreme Court may be on that abstract question, still the right of the people to make a slave Territory or a free Territory is perfect and complete under the Nebraska bill. I hope Mr. Lincoln deems my answer satisfactory on that point.¹

In this connection I will notice the charge which he has introduced in relation to Mr. Chase's amendment. The Nebraska bill provided that the legislative power and authority of the said Territory should extend to all rightful subjects of legislation consistent with the organic act and the Constitution of the United States. It did not make any exception as to slavery, but gave all the power that it was possible for Congress to give, without violating the Constitution, to the territorial legislature, with no exception or limitation on the subject of slavery at all. What more could Mr. Chase give by his amendment? Nothing. He offered his amendment for the identical purpose for which Mr. Lincoln is using it, to enable demagogues in the country to try and deceive the people.

The third question which Mr. Lincoln presented is: If the

¹For comment on this celebrated "Freeport doctrine," see page 162. V—10

Supreme Court of the United States shall decide that a State of this Union cannot exclude slavery from its own limits, will I submit to it? I am amazed that Lincoln should ask such a question. ["*A schoolboy knows better.*"] Yes, a schoolboy does know better. Mr. Lincoln's object is to cast an imputation upon the Supreme Court. He knows that there never was but one man in America claiming any degree of intelligence or decency who ever for a moment pretended such a thing. It is true that the *Washington Union*, in an article published on the 17th of last December, did put forth that doctrine, and I denounced the article on the floor of the Senate, in a speech which Mr. Lincoln now pretends was against the President. The *Union* had claimed that slavery had a right to go into the free States, and that any provision in the Constitution or laws of the free States to the contrary was null and void. I denounced it in the Senate, as I said before, and I was the first man who did. Lincoln's friends, Trumbull, and Seward, and Hale, and Wilson, and the whole Black Republican side of the Senate were silent. They left it to me to denounce it. And what was the reply made to me on that occasion? Mr. Toombs, of Georgia, got up and undertook to lecture me on the ground that I ought not to have deemed the article worthy of notice, and ought not to have replied to it; that there was not one man, woman, or child south of the Potomac, in any slave State, who did not repudiate any such pretension. Mr. Lincoln knows that that reply was made on the spot, and yet now he asks this question. He might as well ask me, suppose Mr. Lincoln should steal a horse, would I sanction it? and it would be as genteel in me to ask him, in the event he stole a horse, what ought to be done with him. He casts an imputation upon the Supreme Court of the United States by supposing that they would violate the Constitution of the United States. I tell him that such a thing is not possible. It would be an act of moral treason that no man on the bench ever descended to. Mr. Lincoln himself would never in his partisan feelings so far forget what was right as to be guilty of such an act.

The fourth question of Mr. Lincoln is: Are you in favor of acquiring additional territory, in disregard as to how such acquisition may affect the Union on the slavery question? This question is very ingeniously and cunningly put.

The Black Republican creed lays it down expressly that under no circumstances, shall we acquire any more territory unless slavery is first prohibited in the country. I ask Mr. Lincoln whether he is in favor of that proposition. Are you [*ad-*

dressing Mr. Lincoln] opposed to the acquisition of any more territory, under any circumstances, unless slavery is prohibited in it? That he does not like to answer. When I ask him whether he stands up to that article in the platform of his party he turns, Yankee-fashion, and, without answering it, asks me whether I am in favor of acquiring territory without regard to how it may affect the Union on the slavery question. I answer that, whenever it becomes necessary, in our growth and progress, to acquire more territory, I am in favor of it, without reference to the question of slavery, and, when we have acquired it, I will leave the people free to do as they please, either to make it slave or free territory, as they prefer.

I trust now that Mr. Lincoln will deem himself answered on his four points. He racked his brain so much in devising these four questions that he exhausted himself, and had not strength enough to invent others. As soon as he is able to hold a council with his advisors, Lovejoy, Farnsworth, and Fred Douglass, he will frame and propound others. ["*Good, good.*"] You Black Republicans who say good I have no doubt think that they are all good men. I have reason to recollect that some people in this country think that Fred Douglass is a very good man. The last time I came here to make a speech, while talking from the stand to you, people of Freeport, as I am doing to-day, I saw a carriage, and a magnificent one it was, drive up and take a position on the outside of the crowd; a beautiful young lady was sitting on the box-seat, while Fred Douglass and her mother reclined inside, and the owner of the carriage acted as driver. I saw this in your own town. ["*What of it?*"] All I have to say of it is this, that if you Black Republicans think that the negro ought to be on a social equality with your wives and daughters, and ride in a carriage with your wife, while you drive the team, you have a perfect right to do so.

I have a word to say on Mr. Lincoln's answer to the interrogatories contained in my speech at Ottawa, and which he has pretended to reply to here to-day. Mr. Lincoln makes a great parade of the fact that I quoted a platform as having been adopted by the Black Republican party at Springfield in 1854, which, it turns out, was adopted at another place. Mr. Lincoln loses sight of the thing itself in his ecstasies over the mistake I made in stating the place where it was done. He thinks that that platform was not adopted on the right "spot."

When I put the direct questions to Mr. Lincoln to ascertain whether he now stands pledged to that creed—to the unconditional repeal of the Fugitive Slave Law, a refusal to admit any

more slave States into the Union even if the people want them, a determination to apply the Wilmot proviso, not only to all the territory we now have, but all that we may hereafter acquire—he refused to answer, and his followers say, in excuse, that the resolutions upon which I based my interrogatories were not adopted at the right “spot.” Lincoln and his political friends are great on “spots.” In Congress, as a representative of this State, he declared the Mexican War to be unjust and infamous, and would not support it, or acknowledge his own country to be right in the contest, because he said that American blood was not shed on American soil in the right “spot.”¹ And now he cannot answer the questions I put to him at Ottawa because the resolutions I read were not adopted at the right “spot.” It may be possible that I was led into an error as to the spot on which the resolutions I then read were proclaimed, but I was not, and am not, in error as to the fact of their forming the basis of the creed of the Republican party when that party was first organized.

This platform was adopted in nearly every county that gave a Black Republican majority for the legislature in that year. I will now read the resolutions adopted at the Rockford convention on the 30th of August, 1854, which nominated Washburne for Congress. You elected him on the following platform:

Here the speaker read the platform, which was strongly Abolitionist in sentiment. There were cries of approval from the audience.

Well, you think that is a very good platform, do you not? If you do, if you approve it now, and think it is all right, you will not join with those men who say that I libel you by calling these your principles, will you? Now, Mr. Lincoln complains; Mr. Lincoln charges that I did you and him injustice by saying that this was the platform of your party. I am told that Washburne made a speech in Galena last night, in which he abused me awfully for bringing to light this platform, on which he was elected to Congress. He thought that you had forgotten it, as he and Mr. Lincoln desire to. He did not deny but that you had adopted it, and that he had subscribed to and was pledged by it, but he did not think it was fair to call it up and remind the people that it was their platform.

But I am glad to find that you are more honest in your Abolitionism than your leaders, by avowing that it is your platform, and right in your opinion.

¹ See Volume II, page 373.

you. I am clinching Lincoln now, and you are scared to death for the result. I have seen this thing before. I have seen men make appointments for joint discussions, and, the moment their man has been heard, try to interrupt and prevent a fair hearing of the other side. I have seen your mobs before, and defy their wrath. [Tremendous applause.] My friends, do not cheer, for I need my whole time. The object of the opposition is to occupy my attention in order to prevent me from giving the whole evidence and nailing this double-dealing on the Black Republican party. As I have before said: Lovejoy demanded a declaration of principles on the part of the Black Republicans of the legislature before going into an election for United States Senator. He offered resolutions which declared:

First, that the Wilmot proviso must be applied to all territory north of 36° 30'; secondly, that it must be applied to all territory south of 36° 30'; thirdly, that it must be applied to all the territory now owned by the United States; and, finally, that it must be applied to all territory hereafter to be acquired by the United States. The next resolution declares that no more slave States shall be admitted into this Union under any circumstances whatever, no matter whether they are formed out of territory now owned by us or that we may hereafter acquire, by treaty, by Congress, or in any manner whatever. The next resolution demands the unconditional repeal of the Fugitive Slave Law, although its unconditional repeal would leave no provision for carrying out that clause of the Constitution of the United States which guarantees the surrender of fugitives. If they could not get an unconditional repeal, they demanded that that law should be so modified as to make it as nearly useless as possible. Now, I want to show you who voted for these resolutions. When the vote was taken on the first resolution, it was decided in the affirmative—yeas 41, nays 32. You will find that this is a strict party vote, between the Democrats on the one hand and the Black Republicans on the other. [Cries of “White, white,” and clamor.] I know your name, and always call things by their right name. The point I wish to call your attention to is this: that these resolutions were adopted on the 7th day of February, and that on the 8th they went into an election for a United States Senator, and that day every man who voted for these resolutions, with but two exceptions, voted for Lincoln for the United States Senate.

Bear in mind that the members who thus voted for Lincoln were elected to the legislature pledged to vote for no man for office under the State or Federal Government who was not com-

In the adoption of that platform you not only declared that you would resist the admission of any more slave States and work for the repeal of the Fugitive Slave Law, but you pledged yourself not to vote for any man for State or federal offices who was not committed to these principles. You were thus committed. Similar resolutions to those were adopted in your county convention here; and now, with your admissions that they are your platform and embody your sentiments now as they did then, what do you think of Mr. Lincoln, your candidate for the United States Senate, who is attempting to dodge the responsibility of this platform, because it was not adopted in the right spot. When I get into the next district I will show that the same platform was adopted there, and so on through the State, until I nail the responsibility of it upon the back of the Black Republican party throughout the State. [A voice; “Couldn’t you modify and call it brown?”] Not a bit. I thought that you were becoming a little brown when your members in Congress voted for the Crittenden-Montgomery bill, but, since you have backed out from that position and gone back to Abolitionism, you are black and not brown.

When the bargain between Lincoln and Trumbull was completed for abolitionizing the Whig and Democratic parties they “spread” over the State, Lincoln still pretending to be an old-line Whig, in order to “rope in” the Whigs, and Trumbull pretending to be as good a Democrat as he ever was, in order to coax the Democrats over into the Abolition ranks. They played the part of “decoy ducks,” and deceived enough old-line Whigs and old-line Democrats to elect a Black Republican legislature.

The bargain was that Lincoln was to have Shields’s place, and Trumbull was to have waited for mine, but Trumbull, having the control of a few abolitionized Democrats, prevented them from voting for Lincoln, thus keeping him within a few votes of an election until he succeeded in forcing the party to drop him and elect Trumbull. Well, Trumbull having cheated Lincoln, his friends made a fuss, and, in order to keep them and Lincoln quiet, the party were obliged to come forward, in advance, at the last State election, and make a pledge that they would go for Lincoln and nobody else. Lincoln could not be silenced in any other way.

Now, there are a great many Black Republicans of you who do not know this thing was done. [“White, white,” and great clamor.] I wish to remind you that while Mr. Lincoln was speaking there was not a Democrat vulgar and blackguard enough to interrupt him. But I know that the shoe is pinching

mitted to this Black Republican platform. Mr. Turner, who stands by me, and who then represented you, and who says that he wrote those resolutions, voted for Lincoln, when he was pledged not to do so unless Lincoln was in favor of those resolutions. I now ask Mr. Turner [turning to Mr. Turner], did you violate your pledge in voting for Mr. Lincoln, or did he commit himself to your platform before you cast your vote for him?

Either Lincoln was pledged to each one of those propositions or else every Black Republican representative from this congressional district violated his pledge of honor to his constituents by voting for him. I ask you which horn of the dilemma will you take? There is no dodging the question; I want Lincoln’s answer. He says he was not pledged to repeal the Fugitive Slave Law, that he does not quite like to do it; he will not introduce a law to repeal it, but thinks there ought to be some law; he does not tell what it ought to be; upon the whole, he is altogether undecided and don’t know what to think or do. Why cannot he speak out and say what he is for and what he will do?

In regard to there being no more slave States he is not pledged to that. He would not like, he says, to be put in a position where he would have to vote one way or another upon that question. I pray you, do not put him in a position that would embarrass him so much. Gentlemen, if he goes to the Senate he may be put in that position, and which way will he vote? [A voice: “How will you vote?”] I will vote for the admission of just such a State as, by the form of their constitution, the people show they want. If they want slavery, they shall have it; if they prohibit slavery, it shall be prohibited. They can form their institutions to please themselves, subject only to the Constitution; and I, for one, stand ready to receive them into the Union. Why cannot your Black Republican candidates talk out as plain as that when they are questioned?

MR. LINCOLN.—The first thing I have to say to you is a word in regard to Judge Douglas’s declaration about the “vulgarity and blackguardism” in the audience—that no such thing, as he says, was shown by any Democrat while I was speaking. Now I only wish, by way of reply on this subject, to say that while I was speaking I used no “vulgarity or blackguardism” toward any Democrat.

Now, my friends, I come to all this long portion of the judge’s speech which he has devoted to the various resolutions and platforms that have been adopted in the different counties. In the different congressional districts, and in the Illinois legis-

lature—which he supposes are at variance with the position I have assumed before you to-day. It is true that many of these resolutions are at variance with the positions I have here assumed. I have never tried to conceal my opinions, nor tried to deceive any one in reference to them. He may go and examine all the members who voted for me for United States Senator in 1855, after the election of 1854. If he finds any of these persons who will tell him anything inconsistent with what I say now, I will retire from the race and give him no more trouble.

The plain truth is this. At the introduction of the Nebraska policy we believed there was a new era being introduced in the history of the republic which tended to the spread and perpetuation of slavery. But, in our opposition to that measure we did not agree with one another in everything. The people in the north end of the State were for stronger measures of opposition than we of the central and southern portions of the State, but we were all opposed to the Nebraska doctrine. We had that one feeling and that one sentiment in common. You at the north end met in your conventions and passed your resolutions. We in the middle of the State and further south did not hold such conventions and pass the same resolutions, although we had, in general, a common view and a common sentiment. So that these meetings which the judge has alluded to, and the resolutions he has read from, were local, and did not spread over the whole State. We at last met together in 1856, from all parts of the State, and we agreed upon a common platform. You who held more extreme notions either yielded those notions, or, if not wholly yielding them, agreed to yield them practically, for the sake of embodying the opposition to the measures which the opposite party were pushing forward at that time. We met you then, and, if there was anything yielded, it was for practical purposes. We agreed then upon a platform for the party throughout the entire State of Illinois and now we are all bound, as a party, to that platform. And I say here to you, if any one expects of me, in the case of my election, that I will do anything not signified by our Republican platform and my answers here to-day, I tell you very frankly that person will be deceived. Cannot the judge be satisfied? If he fears, in the unfortunate case of my election, that my going to Washington will enable me to advocate sentiments contrary to those which I expressed when you voted for and elected me, I assure him that his fears are wholly needless and groundless. Is the judge really afraid of any such thing? I'll tell you what he is afraid of. He is afraid we'll all pull together. For my part,

I do hope that all of us, entertaining a common sentiment in opposition to what appears to us a design to nationalize and perpetuate slavery, will waive minor differences on questions which either belong to the dead past or the distant future, and all pull together in this struggle. What are your sentiments? If it be true that, on the ground which I occupy—ground which I occupy as frankly and boldly as Judge Douglas does his—my views, though partly coinciding with yours, are not as perfectly in accordance with your feelings as his are, I do say to you in all candor, go for him and not for me. I hope to deal in all things fairly with Judge Douglas, and with the people of the State, in this contest. And, if I should never be elected to any office, I trust I may go down with no stain of falsehood upon my reputation, notwithstanding the hard opinions Judge Douglas chooses to entertain of me.

The speaker then referred to Douglas's break with his party on the Lecompton constitution, and his present efforts to mend the breach.

The judge's eye is farther south now. Then it was very peculiarly and decidedly north. His hope rested on the idea of enlisting the great "Black Republican" party, and making it the tail of his new kite. He knows he was then expecting from day to day to turn Republican and place himself at the head of our organization. He has found that these despised "Black Republicans" estimate him by a standard which he has taught them only too well. Hence he is crawling back into his old camp, and you will find him eventually installed in full fellowship among those whom he was then battling, and with whom he now pretends to be at such fearful variance. [*Loud applause and cries of "Go on, go on."*] I cannot, gentlemen, my time has expired.

Third Debate—At Jonesboro, September 15, 1858

Senator Douglas in the opening speech repeated the arguments he had presented in the former debates. Lincoln had been pressing him to declare himself upon the annexation of Cuba, and Douglas now did so as follows:

If we live up to the principle of State rights and State sovereignty, each State regulating its own affairs and minding its own business, we can go on and extend indefinitely, just as

fast and as far as we need the territory. The time may come, indeed has now come, when our interests would be advanced by the acquisition of the island of Cuba. When we get Cuba we must take it as we find it, leaving the people to decide the question of slavery for themselves, without interference on the part of the Federal Government, or of any State of this Union. So, when it becomes necessary to acquire any portion of Mexico or Canada, or of this continent or the adjoining islands, we must take them as we find them, leaving the people free to do as they please—to have slavery or not, as they choose. I never have inquired, and never will inquire, whether a new State applying for admission has slavery or not for one of her institutions. If the constitution that is presented be the act and deed of the people, and embodies their will, and they have the requisite population, I will admit them with slavery or without it, just as that people shall determine. My objection to the Lecompton constitution did not consist in the fact that it made Kansas a slave State. I would have been as much opposed to its admission under such a constitution as a free State as I was opposed to its admission under it as a slave State. I hold that that was a question which that people had a right to decide for themselves, and that no power on earth ought to have interfered with that decision. In my opinion, the Lecompton constitution was not the act and deed of the people of Kansas and did not embody their will, and the recent election in that Territory, at which it was voted down by nearly ten to one, shows conclusively that I was right in saying, when the constitution was presented, that it was not the act and deed of the people, and did not embody their will.

If we wish to preserve our institutions in their purity and transmit them unimpaired to our latest posterity we must preserve with religious good faith that great principle of self-government which guarantees to each and every State, old and new, the right to make just such constitutions as they desire, and come into the Union with their own constitution, and not one palmed upon them. Whenever you sanction the doctrine that Congress may crowd a constitution down the throats of an unwilling people, against their consent, you will subvert the great fundamental principle upon which all our free institutions rest. In the future I have no fear that the attempt will ever be made. President Buchanan declared in his annual message that hereafter the rule adopted in the Minnesota case, requiring a constitution to be submitted to the people, should be followed in all future cases, and, if he stands by that recommendation,

there will be no division in the Democratic party on that principle in the future. Hence the great mission of the Democracy is to unite the fraternal feeling of the whole country, restore peace and quiet by teaching each State to mind its own business and regulate its own domestic affairs, and all to unite in carrying out the Constitution as our fathers made it, and thus to preserve the Union and render it perpetual in all time to come. Why should we not act as our fathers who made the government? There was no sectional strife in Washington's army. They were all brethren of a common confederacy; they fought under a common flag that they might bestow upon their posterity a common destiny, and to this end they poured out their blood in common streams, and shared, in some instances, a common grave.

Mr. Lincoln in his reply showed the dilemma in which Senator Douglas had placed himself by his "Freeport Doctrine" of "unfriendly legislation," by which decisions of the Supreme Court could be practically evaded.

MR. LINCOLN.—The second interrogatory that I propounded to him was this:

Question 2. Can the people of a United States Territory, in any lawful way, against the wish of any citizen of the United States, exclude slavery from its limits prior to the formation of a State constitution?

To this Judge Douglas answered that they can lawfully exclude slavery from the Territory prior to the formation of a constitution. He goes on to tell us how it can be done. As I understand him, he holds that it can be done by the territorial legislature refusing to make any enactments for the protection of slavery in the Territory, and, especially, by adopting unfriendly legislation to it. For the sake of clearness, I state it again: that they can exclude slavery from the Territory—first, by withholding what he assumes to be an indispensable assistance to it in the way of legislation; and, second, by unfriendly legislation. If I rightly understand him, I wish to ask your attention for a while to his position.

In the first place, the Supreme Court of the United States has decided that any congressional prohibition of slavery in the Territories is unconstitutional—they have reached this proposition, as a conclusion from a former proposition, that the Constitution of the United States expressly rec-

ognizes property in slaves; and, from that other constitutional provision, that no person shall be deprived of property without due process of law. Hence they reach the conclusion that, as the Constitution of the United States expressly recognizes property in slaves, and prohibits any person from being deprived of property without due process of law, to pass an act of Congress by which a man who owned a slave on one side of a line would be deprived of him if he took him on the other side is depriving him of that property without due process of law. That I understand to be the decision of the Supreme Court. I understand, also, that Judge Douglas adheres most firmly to that decision; and the difficulty is, how is it possible for any power to exclude slavery from the Territory unless in violation of that decision? That is the difficulty.

In the Senate of the United States, in 1856, Judge Trumbull, in a speech, substantially, if not directly, put the same interrogatory to Judge Douglas, as to whether the people of a Territory had the lawful power to exclude slavery prior to the formation of a constitution? Judge Douglas then answered at considerable length, and his answer will be found in the *Congressional Globe*, under the date of June 9, 1856. The judge said that whether the people could exclude slavery prior to the formation of a constitution or not was a question to be decided by the Supreme Court. He put that proposition, as will be seen by the *Congressional Globe*, in a variety of forms, all running to the same thing in substance—that it was a question for the Supreme Court. I maintain that when he says, after the Supreme Court has decided the question, that the people may yet exclude slavery by any means whatever, he does virtually say that it is not a question for the Supreme Court. He shifts his ground. I appeal to you whether he did not say it was a question for the Supreme Court? Has not the Supreme Court decided that question? When he now says that the people may exclude slavery does he not make it a question for the people? Does he not virtually shift his ground and say that it is not a question for the court, but for the people? This is a very simple proposition—a very plain and naked one. It seems to me that there is no difficulty in deciding it. In a variety of ways he said that it was a question for the Supreme Court. He did not stop then to tell us that, whatever the Supreme Court decides, the people can, by withholding necessary “police regulations,” keep slavery out. He did not make any such answer. I submit to you now whether the new state of the case has not induced

the judge to sheer away from his original ground. Would not this be the impression of every fairminded man?

I hold that the proposition that slavery cannot enter a new country without police regulations is historically false. It is not true at all. I hold that the history of this country shows that the institution of slavery was originally planted upon this continent without these “police regulations” which the judge now thinks necessary for the actual establishment of it. Not only so, but is there not another fact—how came this Dred Scott decision to be made? It was made upon the case of a negro being taken and actually held in slavery in Minnesota Territory, claiming his freedom because the act of Congress prohibited his being so held there. Will the judge pretend that Dred Scott was not held there without police regulations? There is at least one matter of record as to his having been held in slavery in the Territory, not only without police regulations, but in the teeth of congressional legislation supposed to be valid at the time. This shows that there is vigor enough in slavery to plant itself in a new country even against unfriendly legislation. It takes not only law but the enforcement of law to keep it out. That is the history of this country upon the subject.

I wish to ask one other question. It being understood that the Constitution of the United States guarantees property in slaves in the Territories, if there is any infringement of the right of that property, would not the United States courts, organized for the government of the Territory, apply such remedy as might be necessary in that case? It is a maxim held by the courts that there is no wrong without its remedy; and the courts have a remedy for whatever is acknowledged and treated as a wrong.

Again: I will ask you, my friends, if you were elected members of the legislature, what would be the first thing you would have to do before entering upon your duties? Swear to support the Constitution of the United States. Suppose you believe, as Judge Douglas does, that the Constitution of the United States guarantees to your neighbor the right to hold slaves in that Territory—that they are his property—how can you clear your oaths unless you give him such legislation as is necessary to enable him to enjoy that property? What do you understand by supporting the constitution of a State, or of the United States? Is it not to give such constitutional helps to the rights established by that constitution as may be practically needed? Can you, if you swear to support the Constitution, and believe that the Constitution establishes a right, clear your oath,

without giving it support? Do you support the Constitution if, knowing or believing, there is a right established under it which needs specific legislation, you withhold that legislation? Do you not violate and disregard your oath? I can conceive of nothing plainer in the world. There can be nothing in the words “support the Constitution” if you may run counter to it by refusing support to any right established under the Constitution. And what I say here will hold with still more force against the judge's doctrine of “unfriendly legislation.” How could you, having sworn to support the Constitution, and believing that it guaranteed the right to hold slaves in the Territories, assist in legislation intended to defeat that right? That would be violating your own view of the Constitution. Not only so, but if you were to do so, how long would it take the courts to hold your votes unconstitutional and void? Not a moment.

Lastly I would ask—Is not Congress itself under obligation to give legislative support to any right that is established under the United States Constitution? A member of Congress swears to support the Constitution of the United States, and if he sees a right established by that Constitution which needs specific legislative protection, can he clear his oath without giving that protection? Let me ask you why many of us who are opposed to slavery upon principle give our acquiescence to a Fugitive Slave Law? Why do we hold ourselves under obligations to pass such a law, and abide by it when it is passed? Because the Constitution makes provision that the owners of slaves shall have the right to reclaim them. It gives the right to reclaim slaves, and that right is, as Judge Douglas says, a barren right, unless there is legislation that will enforce it.

The mere declaration, “No person held to service or labor in one State under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered upon claim of the party to whom such service or labor may be due,” is powerless without specific legislation to enforce it. Now, on what ground would a member of Congress who is opposed to slavery in the abstract vote for a fugitive law, as I would deem it my duty to do? Because there is a constitutional right which needs legislation to enforce it. And, although it is distasteful to me, I have sworn to support the Constitution, and, having so sworn, I cannot conceive that I do support it if I withhold from that right any necessary legislation to make it practical. And if that is true in regard to a fugitive slave law, is the right to have fugitive slaves reclaimed any better fixed in the

Constitution than the right to hold slaves in the Territories? For this decision is a just exposition of the Constitution, as Judge Douglas thinks. Is the one right a better than the other? Is there any man who, while a member of Congress, would give support to the one any more than the other? If I wished to refuse to give legislative support to slave property in the Territories, if a member of Congress, I could not do it, holding the view that the Constitution establishes that right. If I did it at all, it would be because I deny that this decision properly construes the Constitution. But, if I acknowledge, with Judge Douglas, that this decision properly construes the Constitution, I cannot conceive that I would be less than a perjured man if I should refuse in Congress to give such protection to that property as, in its nature, it needed.

At the end of what I have said here I propose to give the judge my fifth interrogatory, which he may take and answer at his leisure. My fifth interrogatory is this:

If the slaveholding citizens of a United States Territory should need and demand congressional legislation for the protection of their slave property in such Territory, would you as a member of Congress, vote for or against such legislation?

I am aware that in some of the speeches Judge Douglas has made he has spoken as if he did not know or think that the Supreme Court had decided that a territorial legislature cannot exclude slavery. Precisely what the judge would say upon the subject—whether he would say definitely that he does not understand they have so decided, or whether he would say he does understand that the court have so decided, I do not know; but I know that in his speech at Springfield he spoke of it as a thing they had not decided yet; and, in his answer to me at Freeport, he spoke of it again, so far as I can comprehend it, as a thing that had not yet been decided. Now I hold that, if the judge does entertain that view, I think that he is not mistaken in so far as it can be said that the court has not decided anything save the mere question of jurisdiction. I know the legal arguments that can be made—that after a court has decided that it cannot take jurisdiction in a case, it then has decided all that is before it, and that is the end of it. A plausible argument can be made in favor of that proposition, but I know that Judge Douglas has said in one of his speeches that the court went forward, like honest men as they were, and decided all the points in the case. If any points are really extra-judicially decided because not necessarily before them, then this one as to the power of the territorial legislature to

exclude slavery is one of them, as also the one that the Missouri compromise was null and void. They are both extrajudicial, or neither is, according as the court held that they had no jurisdiction in the case between the parties, because of want of capacity of one party to maintain a suit in that court. I want, if I have sufficient time, to show that the court did pass its opinion, but that is the only thing actually done in the case. If they did not decide, they showed what they were ready to decide whenever the matter was before them. What is that opinion? After having argued that Congress had no power to pass a law excluding slavery from a United States Territory, they then used language to this effect: That, inasmuch as Congress itself could not exercise such a power, it followed, as a matter of course, that it could not authorize a territorial government to exercise it, for the territorial legislature can do no more than Congress could do. Thus it expressed its opinion emphatically against the power of a territorial legislature to exclude slavery, leaving us in just as little doubt on that point as upon any other point they really decided.

SENATOR DOUGLAS.—Mr. Lincoln has framed another question, propounded it to me, and desired my answer. It is as follows: "If the slaveholding citizens of a United States Territory should need and demand congressional legislation for the protection of their slave property in such Territory, would you, as a member of Congress, vote for or against such legislation?" I answer him that it is a fundamental article in the Democratic creed that there should be non-interference and non-intervention by Congress with slavery in the States or Territories. Mr. Lincoln could have found an answer to his question in the Cincinnati platform, if he had desired it. The Democratic party have always stood by that great principle of non-interference and non-intervention by Congress with slavery in the States or Territories alike, and I stand on that platform now.

Now I desire to call your attention to the fact that Lincoln did not define his own position in his own question. How does he stand on that question?

I ask you whether a man has any right, in common decency, to put questions, in these public discussions, to his opponent, which he will not answer himself when they are pressed home to him. I have asked him three times whether he would vote to admit Kansas whenever the people applied with a constitution of their own making and their own adoption, under circumstances that were fair, just, and unexceptionable, but I cannot get an answer from him. Nor will he answer the question

which he put to me, and which I have just answered, in relation to congressional interference in the Territories, by making a slave code there.

It is true that he goes on to answer the question by arguing that under the decision of the Supreme Court it is the duty of a man to vote for a slave code in the Territories. He says that it is his duty, under the decision that the court has made, and if he believes in that decision he would be a perjured man if he did not give the vote. I want to know whether he is not bound to a decision which is contrary to his opinions just as much as to one in accordance with his opinions. If the decision of the Supreme Court, the tribunal created by the Constitution to decide the question, is final and binding, is he not bound by it just as strongly as if he was for it instead of against it originally? Is every man in this land allowed to resist decisions he does not like, and only support those that meet his approval? What are important courts worth unless their decisions are binding on all good citizens? It is the fundamental principle of the judiciary that its decisions are final. It is created for that purpose, so that when you cannot agree among yourselves on a disputed point you appeal to the judicial tribunal, which steps in and decides for you, and that decision is then binding on every good citizen. It is the law of the land just as much with Mr. Lincoln against it as for it. And yet he says if that decision is binding he is a perjured man if he does not vote for the slave code in the different Territories of this Union. Well, if you [turning to Mr. Lincoln] are not going to resist the decision, if you obey it, and do not intend to array mob law against the constituted authorities, then according to your own statement you will be a perjured man if you do not vote to establish slavery in these Territories. My doctrine is, that even taking Mr. Lincoln's view that the decision recognizes the right of a man to carry his slaves into the Territories of the United States, if he pleases, yet after he gets there he needs affirmative law to make that right of any value. The same doctrine not only applies to slave property, but all other kinds of property. Chief Justice Taney places it upon the ground that slave property is on an equal footing with other property. Suppose one of your merchants should move to Kansas and open a liquor store; he has a right to take groceries and liquors there, but the mode of selling them, and the circumstances under which they shall be sold, and all the remedies, must be prescribed by local legislation, and if that is unfriendly it will drive him out just as effectually as if there was a constitutional provision

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against the sale of liquor. So the absence of local legislation to encourage and support slave property in a Territory excludes it practically just as effectually as if there was a positive constitutional provision against it. Hence I assert that under the Dred Scott decision you cannot maintain slavery a day in a Territory where there are an unwilling people and unfriendly legislation. If the people are opposed to it, our right is barren, worthless, useless right; and if they are for it, they will support and encourage it. We come right back, therefore, to the practical question, if the people of a Territory want slavery they will have it, and if they do not want it you cannot force it on them. And this is the practical question, the great principle, upon which our institutions rest. I am willing to take the decision of the Supreme Court as it was pronounced by that august tribunal, without stopping to inquire whether I would have decided that way or not. I have had many a decision made against me on questions of law which I did not like, but I was bound by them just as much as if I had had a hand in making them and approved them. Did you ever see a lawyer or a client lose his case that he approved the decision of the court? They always think the decision unjust when it is given against them. In a government of laws like ours we must sustain the Constitution as our fathers made it, and maintain the rights of the States as they are guaranteed under the Constitution, and then we will have peace and harmony between the different States and sections of this glorious Union.

The remaining debates were held at Charleston, Galesburg, Quincy, and Alton. While many strong arguments were presented on old issues, and new issues even were started up, the historical importance of the controversy had culminated in Lincoln's securing from Douglas a statement and defence of his "Freeport Doctrine" of "unfriendly legislation" as a means of enforcing popular sovereignty while accepting the Dred Scott decision of the Supreme Court. For this declaration Lincoln had been playing from the beginning. In a letter to Henry Asbury, of July 31, 1858, he had written of Senator Douglas:

He cares nothing for the South; he knows he is already dead there. He only leans Southward more to keep the Buchanan party from growing in Illinois. You shall have hard work to get him directly to the point whether a territorial legislature

has or has not the power to exclude slavery. But if you succeed in bringing him to it—though he will be compelled to say it possesses no such power—he will instantly take ground that slavery cannot actually exist in the Territory unless the people desire it, and so give it protection by territorial legislation. If this offends the South, he will let it offend them, as at all events he means to hold on to his chances in Illinois.

At a conference of Republican leaders the night before the Freeport debate Lincoln announced his intention of forcing this declaration from Douglas. He was counseled not to do so, since the theory would be popular with the Illinois voters and would probably win the Senatorship for Douglas. Lincoln replied that the South would never accept the man who enunciated the doctrine as President. "I am after larger game," he said; "the battle of 1860 is worth a hundred of this."

Events fulfilled Lincoln's prophecy. The South accused Douglas of violating a bargain with it. Judah P. Benjamin, of Louisiana, said (in a speech in the Senate, May 22, 1860):

We accuse him [Douglas] for this: to wit, that having bargained with us upon a point upon which we were at issue that it should be considered a judicial point; that he would abide by the decision; that he would act under the decision, and consider it a doctrine of the party; that, having said that to us here in the Senate, he went home, and under the stress of a local election his knees gave way; his whole person trembled. His adversary stood upon principle and was beaten; and lo! he is the candidate of a mighty party for the presidency of the United States. The Senator from Illinois faltered. He got the prize for which he faltered; but lo! the grand prize of his ambition to-day slips from his grasp because of his faltering in his former contest, and his success in the canvass for the Senate, purchased for an ignoble prize, has cost him the loss of the presidency of the United States.

In the election of State legislators which followed this debate the Republicans received a total majority of the votes cast, showing that Lincoln was the choice of the people for Senator. However, owing to a Democratic "gerrymander" of the State senatorial districts, a majority of Democrats were returned to the State Sen-

ate, and these returned Douglas to the national Senate.

Lincoln expected defeat and was thoroughly contented with the results of the contest, the chief of which, to his mind, were the assured defeat of Douglas for the next presidential nomination and the consequent division of the Democratic party into Northern and Southern factions, presaging the election of a Republican President. It was for this division that he had planned, even at the hazard of his own defeat.

Because of the opposition to him by Senator Benjamin and other Southern statesmen Senator Douglas made a speaking tour through the South to rebuild his political fences in that region. In a speech at Memphis, Tenn., in December, 1858, he declared:

"Whenever a Territory has a climate, soil, and production making it the interest of the inhabitants to encourage slave property, they will have a slave code," and where conditions are unfavorable for slavery they will prohibit it. The Almighty, he said, had drawn a line on this continent, on the one side of which the soil must be cultivated by slave labor; on the other by white labor. That line did not run inflexibly along the parallel of 36° 30', the artificial boundary once established by law [in the Missouri compromise], but meandered through the border States and Territories where the self-interest of the inhabitants formed the natural means for its determination.

In a speech at Chicago, on March 1, 1859, Abraham Lincoln replied to this sentiment as follows:

THE MORAL CLIMATE LINE

ABRAHAM LINCOLN

Suppose it is true that the Almighty has drawn a line across this continent, on the south side of which part of the people will hold the rest as slaves; that the Almighty ordered this; that it is right, unchangeably right, that men ought there to be held as slaves; that their fellowmen will always have the right to hold them as slaves. I ask you, this once admitted, how can you believe that it is not right for us, or for them coming here, to hold slaves on this other side of the line? Once we come to acknowledge that it is right, that it is the

CHAPTER V

"THE IRREPRESSIBLE CONFLICT"

Speech by Senator William H. Seward, at Rochester, N. Y., on "The Irrepressible Conflict."—Reply by Alfred Iverson [Ga.] in the Senate: "The Inevitable Dissolution of the Union."

IN the autumn of the same year [1858] in which Lincoln declared, in his "House Divided" speech, that the Union could not continue half free or half slave but must become either wholly free or wholly slave, Senator William H. Seward expressed the same thought in an incisive phrase, "the irrepressible conflict," which pierced to the quick through the calloused



THE UNION RAIL-SPLITTERS

[Lincoln and Seward Splitting the Union]
From the collection of the New York Historical Society

law of the Eternal Being for slavery to exist on one side of that line, have we any sure ground to object to slaves being held on the other side? Once admit the position that a man rightfully holds another man as property on one side of the line, and you must, when it suits his convenience to come to the other side, admit that he has the same right to hold his property there. Once admit Judge Douglas's proposition, and we must all finally give way. Although we may not bring ourselves to the idea that it is to our interest to have slaves in this Northern country, we shall soon bring ourselves to admit that while we may not want them, if anyone else does, he has the moral right to have them. Step by step, south of the judge's moral climate line in the States, in the Territories everywhere, and then in all the States—it is thus that Judge Douglas would lead us inevitably to the nationalization of slavery. Whether by his doctrine of squatter sovereignty or by the ground taken by him in his recent speech in Memphis and through the South—that wherever the climate makes it the interest of the inhabitants to encourage slave property they will pass a slave code—whether it is covertly nationalized by congressional legislation, or by the Dred Scott decision, or by the sophistical and misleading doctrine he has last advanced, the same goal is inevitably reached by the one or the other device. It is only traveling to the same place by different roads.

It is in this direction lies all the danger that now exists to the great Republican cause. I take it that, so far as concerns forcibly establishing slavery in the Territories by congressional legislation, or by virtue of the Dred Scott decision, that day has passed. Our only serious danger is that we shall be led upon this ground of Judge Douglas, on the delusive assumption that it is a good way of whipping our opponents, when in fact it is a way that leads straight to final surrender. The Republican party should not dally with Judge Douglas when it knows where his proposition and his leadership would take us, nor be disposed to listen to it because it was best somewhere else to support somebody occupying his ground. That is no just reason why we ought to go over to Judge Douglas, as we were called upon to do last year.¹ Never forget that we have before us this whole matter of the right or wrong of slavery in this Union, though the immediate question is as to its spreading out into new Territories and States.

¹ Horace Greeley in his *New York Tribune* had advocated that the Republicans assist Douglas to return to the Senate in view of his opposition to the Administration.

THE IRREPRESSIBLE CONFLICT

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optimism of the North, arousing it to prepare for the coming struggle, and stung the sensitive South into infusing with unmistakable determination its time-worn threats of secession.

The phrase was uttered on October 25, at Rochester, N. Y., in a speech to which it gave title.

THE IRREPRESSIBLE CONFLICT

SENATOR SEWARD

Fellow citizens: The unmistakable outbreaks of zeal which occur all around me show that you are earnest men—and such a man am I. Let us, therefore, at least for the time, pass by all secondary and collateral questions, whether of a personal or of a general nature, and consider the main subject of the present canvass. The Democratic party, or, to speak more accurately, the party which wears that attractive name, is in possession of the Federal Government. The Republicans propose to dislodge that party and dismiss it from its high trust.

The main subject, then, is whether the Democratic party desires to retain the confidence of the American people. In attempting to prove it unworthy, I think that I am not actuated by prejudices against that party, or by prepossessions in favor of its adversary; for I have learned, by some experience, that virtue and patriotism, vice and selfishness, are found in all parties, and that they differ less in their motives than in the policies they pursue.

Our country is a theater which exhibits in full operation two radically different political systems, the one resting on the basis of servile or slave labor, the other on the basis of voluntary labor of freemen.

The laborers who are enslaved are all negroes, or persons more or less purely of African derivation. But this is only accidental. The principle of the system is that labor in every society, by whomsoever performed, is necessarily unintellectual, groveling, and base; and that the laborer, equally for his own good and for the welfare of the state, ought to be enslaved. The white laboring man, whether native or foreigner, is not enslaved, only because he cannot, as yet, be reduced to bondage.

You need not be told now that the slave system is the older of the two and that once it was universal.

The emancipation of our own ancestors, Caucasians and Europeans as they were, hardly dates beyond a period of five

hundred years. The great melioration of human society which modern times exhibit is mainly due to the incomplete substitution of the system of voluntary labor for the old one of servile labor which has already taken place. This African slave system is one which, in its origin and in its growth, has been altogether foreign from the habits of the races which colonized these States and established civilization here. It was introduced on this new continent as an engine of conquest, and for the establishment of monarchical power, by the Portuguese and the Spaniards, and was rapidly extended by them all over South America, Central America, Louisiana, and Mexico. Its legitimate fruits are seen in the poverty, imbecility, and anarchy which now pervade all Portuguese and Spanish America. The free labor system is of German extraction, and it was established in our country by emigrants from Sweden, Holland, Germany, Great Britain, and Ireland. We justly ascribe to its influences the strength, wealth, greatness, intelligence, and freedom which the whole American people now enjoy. One of the chief elements of the value of human life is freedom in the pursuit of happiness. The slave system is not only intolerant, unjust, and inhuman toward the laborer, whom, only because he is a laborer, it loads down with chains and converts into merchandise, but is scarcely less severe upon the freeman, to whom, only because he is a laborer from necessity, it denies facilities for employment, and whom it expels from the community because it cannot enslave and convert him into merchandise also. It is necessarily improvident and ruinous, because, as a general truth, communities prosper and flourish, or droop and decline, in just the degree that they practice or neglect to practice the primary duties of justice and humanity. The free-labor system conforms to the divine law of equality, which is written in the hearts and consciences of men, and therefore is always and everywhere beneficent.

The slave system is one of constant danger, distrust, suspicion, and watchfulness. It debases those whose toil alone can produce wealth and resources of defence, to the lowest degree of which human nature is capable, to guard against mutiny and insurrection, and thus wastes energies which otherwise might be employed in national development and aggrandizement.

The free-labor system educates all alike, and, by opening all the fields of industrial employment and all the departments of authority to the unchecked and equal rivalry of all classes of men, at once secures universal contentment and brings into

the highest possible activity all the physical, moral, and social energies of the whole state. In states where the slave system prevails, the masters, directly or indirectly, secure all political power, and constitute a ruling aristocracy. In states where the free-labor system prevails, universal suffrage necessarily obtains, and the state inevitably becomes, sooner or later, a republic or a democracy.

Russia yet maintains slavery, and is a despotism. Most of the other European states have abolished slavery and adopted the system of free labor. It was the antagonistic political tendencies of the two systems which the first Napoleon was contemplating when he predicted that Europe would ultimately be either all Cossack or all republican. Never did human sagacity utter a more pregnant truth. The two systems are at once perceived to be incongruous. But they are more than incongruous; they are incompatible. They never have permanently existed together in one country, and they never can. It would be easy to demonstrate this impossibility from the irreconcilable contrast between their great principles and characteristics. But the experience of mankind has conclusively established it. Slavery, as I have already intimated, existed in every state in Europe. Free labor has supplanted it everywhere except in Russia and Turkey. State necessities developed in modern times are now obliging even those two nations to encourage and employ free labor; and already, despotic as they are, we find them engaged in abolishing slavery. In the United States slavery came into collision with free labor at the close of the last century, and fell before it in New England, New York, New Jersey, and Pennsylvania, but triumphed over it effectually, and excluded it for a period yet undetermined from Virginia, the Carolinas, and Georgia. Indeed, so incompatible are the two systems that every new State which is organized within our ever-extending domain makes its first political act a choice of the one and an exclusion of the other, even at the cost of civil war if necessary. The slave States, without law, at the last national election successfully forbade, within their own limits, even the casting of votes for a candidate for President of the United States supposed to be favorable to the establishment of the free-labor system in new States.

Hitherto the two systems have existed in different states, but side by side within the American Union. This has happened because the Union is a confederation of States. But in another aspect the United States constitute only one nation. Increase of population, which is filling the States out to their

very borders, together with a new and extended network of railroads and other avenues and an internal commerce which daily becomes more intimate, is rapidly bringing the States into a higher and more perfect social unity or consolidation. Thus these antagonistic systems are continually coming into closer contact, and collision results.

Shall I tell you what this collision means? They who think that it is accidental, unnecessary, the work of interested or fanatical agitators, and therefore ephemeral, mistake the case altogether. It is an irrepressible conflict between opposing and enduring forces, and it means that the United States must and will, sooner or later, become either entirely a slaveholding nation or entirely a free-labor nation. Either the cotton and rice fields of South Carolina and the sugar plantations of Louisiana will ultimately be tilled by free labor, and Charleston and New Orleans become marts for legitimate merchandise alone, or else the rye fields and wheat fields of Massachusetts and New York must again be surrendered by their farmers to slave culture and to the production of slaves, and Boston and New York become once more markets for trade in the bodies and souls of men. It is the failure to apprehend this great truth that induces so many unsuccessful attempts at final compromise between the slave and free States, and it is the existence of this great fact that renders all such pretended compromises, when made, vain and ephemeral. Startling as this saying may appear to you, fellow citizens, it is by no means an original or even a modern one. Our forefathers knew it to be true, and unanimously acted upon it when they framed the Constitution of the United States. They regarded the existence of the servile system in so many of the States with sorrow and shame, which they openly confessed, and they looked upon the collision between them, which was then just revealing itself, and which we are now accustomed to deplore, with favor and hope. They knew that either the one or the other system must exclusively prevail.

Unlike too many of those who in modern times invoke their authority, they had a choice between the two. They preferred the system of free labor, and they determined to organize the government and so to direct its activity that that system should surely and certainly prevail. For this purpose, and no other, they based the whole structure of government broadly on the principle that all men are created equal, and therefore free—little dreaming that, within the short period of one hundred years, their descendants would bear to be told by any orator,

however popular, that the utterance of that principle was merely a rhetorical rhapsody; or by any judge, however venerated, that it was attended by mental reservations which rendered it hypocritical and false. By the Ordinance of 1787 they dedicated all of the national domain not yet polluted by slavery to free labor immediately, thenceforth, and forever; while by the new Constitution and laws they invited foreign free labor from all lands under the sun, and interdicted the importation of African slave labor, at all times, in all places, and under all circumstances whatsoever. It is true that they necessarily and wisely modified this policy of freedom by leaving it to the several States, affected as they were by differing circumstances, to abolish slavery in their own way and at their own pleasure, instead of confiding that duty to Congress, and that they secured to the slave States, while yet retaining the system of slavery, a three-fifths representation of slaves in the Federal Government, until they should find themselves able to relinquish it with safety. But the very nature of these modifications fortifies my position that the fathers knew that the two systems could not endure within the Union, and expected that within a short period slavery would disappear forever. Moreover, in order that these modifications might not altogether defeat their grand design of a republic maintaining universal equality, they provided that two-thirds of the States might amend the Constitution.

It remains to say on this point only one word to guard against misapprehension. If these States are again to become universally slaveholding, I do not pretend to say with what violations of the Constitution that end shall be accomplished. On the other hand, while I do confidently believe and hope that my country will yet become a land of universal freedom, I do not expect that it will be made so otherwise than through the action of the several States cooperating with the Federal Government, and all acting in strict conformity with their respective constitutions.

The strife and contentions concerning slavery which gently disposed persons so habitually deprecate are nothing more than the ripening of the conflict which the fathers themselves not only thus regarded with favor, but which they may be said to have instituted.

It is not to be denied, however, that thus far the course of that contest has not been according to their humane anticipations and wishes. In the field of Federal politics, slavery, deriving unlooked-for advantages from commercial changes, and

energies unforeseen from the facilities of combination between members of the slaveholding class and between that class and other property classes, early rallied, and has at length made a stand, not merely to retain its original defensive position, but to extend its sway throughout the whole Union. It is certain that the slaveholding class of American citizens indulge this high ambition, and that they derive encouragement for it from the rapid and effective political successes which they have already obtained. The plan of operation is this: By continued appliances of patronage and threats of disunion they will keep a majority favorable to these designs in the Senate, where each State has an equal representation. Through that majority they will defeat, as they best can, the admission of free States and secure the admission of slave States. Under the protection of the judiciary, they will, on the principle of the Dred Scott case, carry slavery into all the Territories of the United States now existing and hereafter to be organized. By the action of the President and the Senate, using the treaty-making power, they will annex foreign slaveholding states. In a favorable conjuncture they will induce Congress to repeal the act of 1808, which prohibits the foreign slave trade, and so they will import from Africa, at the cost of only twenty dollars a head, slaves enough to fill up the interior of the continent. Thus relatively increasing the number of slave States, they will allow no amendment to the Constitution prejudicial to their interests; and so, having permanently established their power, they expect the Federal judiciary to nullify all State laws which shall interfere with internal or foreign commerce in slaves. When the free States shall be sufficiently demoralized to tolerate these designs they reasonably conclude that slavery will be accepted by those States themselves. I shall not stop to show how speedy or how complete would be the ruin which the accomplishment of these slaveholding schemes would bring upon the country. For one, I should not remain in the country to test the sad experiment. Having spent my manhood, though not my whole life, in a free State, no aristocracy of any kind, much less an aristocracy of slaveholders, shall ever make the laws of the land in which I shall be content to live. Having seen the society around me universally engaged in agriculture, manufactures, and trade which were innocent and beneficent, I shall never be a denizen of a State where men and women are reared as cattle and are bought and sold as merchandise. When that evil day shall come, and all further effort at resistance shall be impossible, then, if there shall remain no bet-

ter hope for redemption than I can now foresee, I shall say with Benjamin Franklin, while looking abroad over the whole earth for a new and congenial home: "Where liberty dwells, there is my country."

You will tell me that these fears are extravagant and chimerical. I answer they are so; but they are so only because the designs of the slaveholders must and can be defeated. But it is only the possibility of defeat that renders them so. They cannot be defeated by inactivity. There is no escape from them, compatible with non-resistance. How, then, and in what way shall the necessary resistance be made? There is only one way. The Democratic party must be permanently dislodged from the Government. The reason is that the Democratic party is inextricably committed to the designs of the slaveholders which I have described. Let me be well understood. I do not charge that the Democratic candidates for public office now before the people are pledged to, much less that the Democratic masses who support them really adopt, those atrocious and dangerous designs. Candidates may, and generally do, mean to act justly, wisely, and patriotically when they shall be elected; but they become the ministers and servants, not the dictators, of the power which elects them. The policy which a party shall pursue at a future period is only gradually developed, depending on the occurrence of events never fully foreknown. The motives of men, whether acting as electors or in any other capacity, are generally pure. Nevertheless, it is not more true that "Hell is paved with good intentions" than it is that earth is covered with wrecks resulting from innocent and amiable motives.

The very constitution of the Democratic party commits it to execute all the designs of the slaveholders, whatever they may be. It is not a party of the whole Union, of all the free States, and of all the slave States; nor yet is it a party of the free States in the North and in the Northwest; but it is a sectional and local party, having practically its seat within the slave States, and counting its constituency chiefly and almost exclusively there. Of all its representatives in Congress and in the Electoral College, two-thirds uniformly come from these States. Its great element of strength lies in the vote of the slaveholders, augmented by the representation of three-fifths of the slaves. Deprive the Democratic party of this strength and it would be a helpless and hopeless minority, incapable of continued organization. The Democratic party, being thus local and sectional, acquires new strength from the admission of

every new slave State, and loses relatively by the admission of every new free State in the Union.

A party is, in one sense, a joint stock association, in which those who contribute most direct the action and management of the concern. The slaveholders contributing in an overwhelming proportion to the capital strength of the Democratic party, they necessarily dictate and prescribe its policy. The inevitable caucus system enables them to do so with a show of fairness and justice. If it were possible to conceive for a moment that the Democratic party should disobey the behests of the slaveholders, we should then see a withdrawal of the slaveholders which would leave the party to perish. The portion of the party which is found in the free States is a mere appendage, convenient to modify its sectional character without impairing its sectional constitution, and is less effective in regulating its movement than the nebulous tail of the comet is in determining the appointed though apparently eccentric course of the fiery sphere from which it emanates.

To expect the Democratic party to resist slavery and favor freedom is as unreasonable as to look for Protestant missionaries to the Catholic Propaganda of Rome. The history of the Democratic party commits it to the policy of slavery. It has been the Democratic party, and no other agency, which has carried that policy up to its present alarming culmination.

The speaker here reviewed the history of the present Democratic party from its origin in the "Era of Good Feeling" (Monroe's Administration) to the repeal of the Missouri Compromise (1854), showing its consistent and increasing devotion to the cause of slavery.

In 1856, when the people of Kansas had organized a new State within the region thus abandoned to slavery, and applied to be admitted as a free State into the Union, the Democratic party contemptuously rejected their petition and drove them with menaces and intimidations from the halls of Congress, and armed the President with military power to enforce their submission to a slave code, established over them by fraud and usurpation. At every subsequent stage of the long contest which has since raged in Kansas, the Democratic party has lent its sympathies, its aid, and all the powers of the Government which it controlled, to enforce slavery upon that unwilling and injured people. And now, even at this day, while it mocks us with the assurance that Kansas is free, the Democratic party keeps

the State excluded from her just and proper place in the Union, under the hope that she may be dragooned into the acceptance of slavery.

The Democratic party, finally, has procured from a supreme judiciary, fixed in its interest, a decree that slavery exists by force of the Constitution in every Territory of the United States, paramount to all legislative authority either within the Territory or residing in Congress.

Such is the Democratic party. It has no policy, State or Federal, for finance, or trade, or manufacture, or commerce, or education, or internal improvements, or for the protection or even the security of civil or religious liberty. It is positive and uncompromising in the interest of slavery—negative, compromising, and vacillating, in regard to everything else. It boasts its love of equality and wastes its strength, and even its life, in fortifying the only aristocracy known in the land. It professes fraternity, and, so often as slavery requires, allies itself with proscription. It magnifies itself for conquests in foreign lands, but it sends the national eagle forth always with chains, and not the olive branch, in his fangs.

This dark record shows you, fellow citizens, what I was unwilling to announce at an earlier stage of this argument, that, of the whole nefarious schedule of slaveholding designs which I have submitted to you, the Democratic party has left only one yet to be consummated—the abrogation of the law which forbids the African slave trade.

Now, I know very well that the Democratic party has at every stage of these proceedings disavowed the motive and the policy of fortifying and extending slavery, and has excused them on entirely different and more plausible grounds. But the inconsistency and frivolity of these pleas prove still more conclusively the guilt I charge upon that party. It must, indeed, try to excuse such guilt before mankind, and even to the consciences of its own adherents. There is an instinctive abhorrence of slavery, and an inborn and inhering love of freedom in the human heart, which renders palliation of such gross misconduct indispensable. It disfranchised the free African on the ground of a fear that, if left to enjoy the right of suffrage, he might seduce the free white citizen into amalgamation with his wronged and despised race. It denies emancipation in the District of Columbia, even with compensation to masters and the consent of the people, on the ground of an implied constitutional inhibition, although the Constitution expressly confers upon Congress sovereign legislative power in that district, and

although the Democratic party is tenacious of the principle of strict construction. It violated the express provisions of the Constitution in suppressing petition and debate on the subject of slavery, through fear of disturbance of the public harmony, although it claims that the electors have a right to instruct their representatives, and even demand their resignation in cases of contumacy. It extended slavery over Texas, and connived at the attempt to spread it across the Mexican territories, even to the shores of the Pacific Ocean, under a plea of enlarging the area of freedom. It abrogated the Mexican slave law and the Missouri compromise prohibition of slavery in Kansas, not to open the new Territories to slavery, but to try therein the new and fascinating theories of non-intervention and popular sovereignty; and, finally, it overthrew both these new and elegant systems by the English Leecompton bill and the Dred Scott decision, on the ground that the free States ought not to enter the Union without a population equal to the representative basis of one member of Congress, although slave States might come in without inspection as to their numbers.

Will any member of the Democratic party now here claim that the authorities chosen by the suffrages of the party transcended their partizan platforms, and so misrepresented the party in the various transactions I have recited? Then I ask him to name one Democratic statesman or legislator, from Van Buren to Walker, who either timidly or cautiously, like them, or boldly or defiantly, like Douglas, ever refused to execute a behest of the slaveholders, and was not therefor, and for no other cause, immediately denounced, and deposed from his trust, and repudiated by the Democratic party for that contumacy.

I think, fellow citizens, that I have shown you that it is high time for the friends of freedom to rush to the rescue of the Constitution, and that their very first duty is to dismiss the Democratic party from the administration of the Government.

Why shall it not be done? All agree that it ought to be done. What, then, shall prevent its being done? Nothing but timidity or division of the opponents of the Democratic party.

Some of these opponents start one objection and some another. Let us notice these objections briefly. One class say that they cannot trust the Republican party; that it has not avowed its hostility to slavery boldly enough or its affection for freedom earnestly enough.

I ask in reply: Is there any other party which can be

more safely trusted? Everyone knows that it is the Republican party or none that shall displace the Democratic party. But I answer further that the character and fidelity of any party are determined, necessarily, not by its pledges, programs, and platforms, but by the public exigencies and the temper of the people when they call it into activity. Subserviency to slavery is a law written not only on the forehead of the Democratic party, but also in its very soul—so resistance to slavery and devotion to freedom, the popular elements now actively working for the Republican party among the people, must and will be the resources for its ever-renewing strength and constant invigoration.

Others cannot support the Republican party because it has not sufficiently exposed its platform and determined what it will do and what it will not do when triumphant. It may prove too progressive for some and too conservative for others. As if any party ever foresaw so clearly the course of future events as to plan a universal scheme for future action, adapted to all possible emergencies. Who would ever have joined even the Whig party of the Revolution if it had been obliged to answer in 1775 whether it would declare for independence in 1776, and for this noble Federal Constitution of ours in 1787, and not a year earlier or later?

The people of the United States will be as wise next year, and the year afterward, and even ten years hence, as we are now. They will oblige the Republican party to act as the public welfare and the interests of justice and humanity shall require, through all the stages of its career, whether of trial or triumph.

Others will not venture an effort because they feel that the Union would not endure the change. Will such objectors tell me how long a Constitution can bear a strain directly along the fibers of which it is composed? This is a Constitution of freedom. It is being converted into a Constitution of slavery. It is a republican Constitution. It is being made an aristocratic one. Others wish to wait until some collateral questions concerning temperance or the exercise of the elective franchise are properly settled. Let me ask all such persons whether time enough has not been wasted on these points already without gaining any other than this single advantage, namely, the discovery that only one thing can be effectually done at one time, and that the one thing which must and will be done at any one time is just that thing which is most urgent and will no longer admit of postponement or delay. Finally we are told by

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faint-hearted men that they despond; the Democratic party, they say, is unconquerable, and the dominion of slavery is consequently inevitable. I reply to them that the complete and universal dominion of slavery would be intolerable enough when it should have come after the last possible effort to escape should have been made. There would, in that case, be left to us the consoling reflection of fidelity to duty.

But I reply, further, that I know—few, I think, know better than I—the resources and energies of the Democratic party, which is identical with the slave power. I do ample justice to its traditional popularity. I know further—few, I think, know better than I—the difficulties and disadvantages of organizing a new political force like the Republican party, and the obstacles it must encounter in laboring without prestige and without patronage. But, notwithstanding all this, I know that the Democratic party must go down and that the Republican party must rise into its place. The Democratic party derived its strength, originally, from its adoption of the principles of equal and exact justice to all men. So long as it practiced this principle faithfully, it was invulnerable. It became vulnerable when it renounced the principle, and since that time it has maintained itself, not by virtue of its own strength, or even of its traditional merits, but because there as yet had appeared in the political field no other party that had the conscience and the courage to take up, and avow, and practice the life-inspiring principles which the Democratic party had surrendered. At last the Republican party has appeared. It avows now, as the Republican party of 1800 did, in one word, its faith and its works: "Equal and exact justice to all men." Even when it first entered the field, only half organized, it struck a blow which only just failed to secure complete and triumphant victory. In this, its second campaign, it has already won advantages which render that triumph now both easy and certain.

The secret of its assured success lies in that very characteristic which, in the mouth of scoffers, constitutes its great and lasting imbecility and reproach. It lies in the fact that it is a party of one idea; but that idea is a noble one—an idea that fills and expands all generous souls; the idea of equality, the equality of all men before human tribunals and human laws, as they are all equal before the Divine tribunal and Divine laws.

I know, and you know, that a revolution has begun. I know, and all the world knows, that revolutions never go backward. Twenty Senators and a hundred Representatives proclaim boldly in Congress to-day sentiments and opinions and principles of



THE IRREPRESSIBLE CONFLICT.
[The Republican party throwing Seward overboard]
From the collection of the New York Public Library

freedom which hardly so many men, even in this free State, dared to utter in their own homes twenty years ago. While the Government of the United States, under the conduct of the Democratic party, has been all that time surrendering one plain and castle after another to slavery, the people of the United States have been no less steadily and perseveringly gathering together the forces with which to recover back again all the fields and all the castles which have been lost, and to confound and overthrow, by one decisive blow, the betrayers of the Constitution and freedom forever.

The question of constructing a railroad to the Pacific Ocean exclusively through the Northern States came up during the next session of Congress, and, in opposing this project as a sectional one, Senator Alfred Iverson [Ga.] on January 6, 1859, referred to the "irrepressible conflict" between the North and South as certain to lead to the dissolution of the Union and the formation of a Southern Confederacy.

THE INEVITABLE DISSOLUTION OF THE UNION

SENATOR IVERSON

Speaking of the Union, sir, I take occasion to say that there is another reason connected with it which makes me object to any bill, the provisions of which will secure the Government aid in the construction of a railroad to the Pacific, exclusively confined to the Northern States. Sir, I believe that the time will come when the slave States will be compelled, in vindication of their rights, interests, and honor, to separate from the free States, and erect an independent confederacy; and I am not sure, sir, that the time is not near at hand when that event will occur. At all events, I am satisfied that one of two things is *inevitable*; either that the slave States must surrender their peculiar institutions or separate from the North. I do not intend, on this occasion, to enter into an elaborate or prolonged discussion of this proposition. I content myself with expressing my firm belief and a brief allusion to the foundation of that opinion. It is unnecessary to look back to the commencement of the anti-slavery agitation in the Northern States and to trace its regular and rapid growth to its present monstrous proportions.

I remember twenty-five years ago, when petitions were first

possession of the Government; when it has the President, both Houses of Congress, and the judiciary, what will stay its hand? It cannot stand still; if it does, it dies. To live and reign, it must go on. Step by step it will be driven onward in its mad career until either slavery is abolished or the Union is dissolved. One of these two things is as inevitable as death.

I know that there are men even in the South who, like the distinguished Senator from South Carolina, argue that slavery is stronger and safer now in the Union than it ever has been—that the South, by unity and concert, can always combine with a party at the North sufficiently strong to carry the elections and control the action of the Federal Government. In my opinion, there never was a greater mistake. Suppose the election of President were to come off at this time, and all the Southern States, including even Maryland, were united upon a candidate: how many free States would he carry? Perhaps California, and Oregon if she is admitted; but not another State. The recent elections show clearly that the Abolitionists have not only a decided but an overwhelming majority in every free State on the Atlantic slope. In all the late elections, conservative and sound Democracy, the only element sympathizing with the South, has not carried a single free State. I do not consider the triumph of the distinguished Senator from Illinois [Mr. Douglas] as a victory of sound Democracy. It was a victory of Free-Soil Democracy over Abolition Whiggery, and no more; and I would not give a copper for the difference. So far as the South and her constitutional rights are concerned, it was a victory over her and over them. I would not turn on my heel for choice between the Wilnot proviso and the squatter-sovereignty doctrine and policy of the Senator from Illinois. Indeed, sir, if I was driven to select between them, I would take the former. It is open, manly, and decisive; it settles the question at once by debarring the Southern people, in terms, from entering the Territories with their slave property; it is an open and undisguised denial of right to the South, which the South could resist or submit to, as her sense of honor or her policy might dictate, while the squatter-sovereignty doctrine and practice, as defined by its distinguished advocate, is plausible, delusive, deceptive, and fatal. No man of common sense can suppose that under it the South will ever obtain another foot of territory or add another slave State to this Union. Both are political heresies, finding no authority in the Constitution; equally violative of the rights of the Southern people, subversive of their equality

presented to Congress for the abolition of slavery in the District of Columbia; it was the beginning of the agitation and was limited to a few deluded religious fanatics among the men and some of the weaker sex of the New England States. It nevertheless aroused the fears and excited the angry feelings of many of the Southern people; it produced much discussion in Congress and among the newspaper press of the Southern States. Many expressed their belief that it was the beginning of a storm which was to sweep over the free States, carrying everything before it; but they were met with the siren song which the distinguished Senator from South Carolina [James H. Hammond] has recently so eloquently poured forth, "there is no danger; slavery is too strong to be overturned; let the sound, conservative mind and heart of the North be appealed to, and all will be right; our friends there will protect us." Behold the result in the late elections! With the bold, undisguised declaration of hostility to slavery at the South, as enunciated by the great leader of its enemies at Rochester, with his loud-sounding pronouncement of "down with the accursed thing"; with the bloody flag of anti-slavery unfurled, and "war to the knife" written upon its folds, there is not at this day a majority of true, conservative friends of the rights of the South in a single free State of this Union this side of the Rocky Mountains. The demon of abolition, in his most hideous shape, has covered them all over with the footprints of his onward and remorseless march to power.

Sir, he knows but little of the workings of human nature who supposes that the spirit of anti-slavery fanaticism which now pervades the Northern heart will stop short of its favorite and final end and aim—the universal emancipation of slavery in the United States by the operation and action of the Federal Government. When Mr. Wilberforce began the agitation of his scheme of emancipation in the British West India Islands there was not a corporal's guard in both Houses of the British Parliament who sympathized with him or approved the movement; and yet, in less than a quarter of a century, all England became abolitionized, and perpetrated, by a decree in Parliament, one of the most arbitrary and outrageous violations of private rights which was ever inflicted by despotic power upon peaceful and loyal subjects. And so it will be in this country. The same spirit which brought about emancipation in the British islands will produce it here whenever the power is obtained to pass and to enforce its decrees. When the present Republican party, or its legitimate successors in some other name, shall get

in the Union, and an insult to their honor, which, in my opinion, alike demand their reprobation and resistance.

The people of the Southern States, as coequals in the Union, and as joint and equal owners of the public territory, have the right to emigrate to these Territories with their slave property, and to the protection and the enjoyment of that property by law during the existence of the territorial government; laws passed by Congress as the trustee and common head of the joint property—head of all the States and all the people of the States in the public territory; laws recognizing the equal right of every citizen to go in and possess and enjoy the common inheritance; laws, not to deprive men of property, but to regulate and secure its enjoyment; laws to put every man in the United States upon an equal footing in the exercise of a great constitutional right. This, sir, is what we of the South are entitled to at the hands of a common Government; and we ought not to be content with less or submit to a denial of it. I am free to declare here that, if I had the control of the Southern people, I would demand this of Congress at the organization of every territorial government as the terms upon which the South should remain in the Union. I would hold our "right" in one hand and "separation" in the other, and leave the North to choose between them. If you would do us justice, I would live with you in peace; if you denied us justice, I would not live with you another day.

Sir, abolition is advancing with rapid strides to the accomplishment of its great end, the universal emancipation of slavery in the United States. The distinguished Senator from New York [Mr. Seward], when he uttered his anathemas and ushered forth his declaration of war against Southern slavery at Rochester, understood well the feeling which sways, and is likely to sway, the masses in the Northern States upon this important and exciting subject. The North intends to put down slavery at the South, "peaceably if they can, forcibly if they must." It is true the Senator from New York, the great embodiment of this abolition sentiment and will, has very kindly and condescendingly told the world that this great end and object are to be accomplished by "*constitutional means*!" What fool does not understand that? A majority party, controlling all the branches of the Government, and bent upon an object, would have no difficulty in finding a grant of power in the Constitution for the accomplishment of any object. What better authority would they want than the power given to Congress to "provide for the general welfare" of the United States? Slav-

ery, they say, is a great curse, a political, moral, and social evil; a dark and damning stain upon the national escutcheon; a blight upon its prosperity; a great and growing injury even to individuals and States who tolerate it. The national welfare demands its extinguishment, and Congress may and must do it. Here is the grant and here the necessity and occasion of its exercise. What is to deter or hinder? The union of the Southern people in presidential elections? That is the almighty panacea of some gentlemen. Such an idea is not folly only—it is treason against the South. The constitutional power will soon be found; there are more clauses than one which would justify such a proceeding upon the part of a bold and reckless majority. I have heard that John Quincy Adams once said, in a speech delivered in the House of Representatives, that there were so many clauses in the Constitution open to construction that he could drive a four-horse wagon and team through forty places in it, and find authority in each to abolish slavery in the Southern States; and so, sir, when the Republican party obtains the possession and control of the Government—President, Congress, Supreme Court—and shall feel secure of its power and confident of success, there will not only be no constitutional barrier to stay its hand, but abundant authority will be found in the Constitution, as it is, to justify any measure its wisdom or its folly may prompt it to adopt.

Sir, there is but one path of safety for the institution of slavery in the South, when this mighty Northern avalanche of fanaticism and folly shall press upon us, and that path lies through separation and to a Southern confederacy. This is the great ultimate security for the rights, honor, and prosperity of the South. Sir, there are even now thousands of her sons who believe that the slave States, formed into a separate confederacy and united under such a government as experience and wisdom would dictate, would combine elements of more political power, national prosperity, social security, and individual happiness than any nation of ancient or modern times; and, sir, I am among the number. This is not the time or place to enter upon the discussion of this proposition; if it were, the demonstration of its truth would be easy and irresistible. But whether this be so or not—whether the Southern States would be better off in a separate confederacy or in the present Union, one thing is certain, and that is that *no Union or no slavery* will sooner or later be forced upon the choice of the Southern people. I do not say, sir, how or when the South will decide the question, but I will say that there is a large and growing

party in many, if not in all, of the Southern States in favor of separation *now* for causes already existing, as an object both of necessity and political expediency. Ten years ago and scarcely a voice could be heard in all the South calculating the value of the Union. Now their name is legion. As, at each recurring and returning crisis of agitation, the strength of the Abolition party increases at the North, so does the spirit of disunion increase at the South, and its advocates become more confident and defiant.

I venture the opinion that in my own State, so well convinced are the great mass of the people of all parties that the anti-slavery agitation is not to cease until the institution is destroyed, if the question was now put whether the Southern States in a body should separate and form a Southern confederacy, a majority would vote for the proposition. I do not say, sir, that Georgia would secede alone, or together with a few of the other States, or with any number less than the whole; but I verily believe that, if the separation of all of them in a body depended upon the voice of Georgia, that voice would boldly and promptly speak out—separation! I do not say, sir, that this sentiment would be unanimous; I know there are many who are conscientiously of opinion that the Union is the greatest political good; many for whom the Union has irresistible charms; many who would oppose separation from a dread of consequences; and some, from interested motives, would cling to the powers that be and the things that are; they would say, let us trust still longer to the conservative feeling of the North; let us appeal to their patriotism or to their interests; let us give them a Pacific railroad; let us give them high protective tariffs; let us vote millions of the public money to clean out their rivers and improve their harbors; let us feed them and fatten them and gorge them out of the public crib, until, like young vultures, they vomit in our faces; let us smother their fanaticism with masses of gold and silver; and then, perhaps, they will let us keep our *miggers*! But, sir, these are not my sentiments, nor do I believe they are the sentiments or the arguments of the great body of the people of my State. The majority already believe that Northern aggression has gone far enough and ought not to be allowed to go further; they believe that Southern rights and honor out of the Union are better than dishonor within it; they believe that slavery without the Union is better than the Union without slavery; and they are prepared, at the very next act of aggression from the North, to resist, even to the "disruption of all the ties which bind

them to the Union." Nor do I believe, sir, that the people of Georgia or of the South will be disposed to wait for an overt act of aggression upon the rights, honor, or interests of the Southern States.

The election of a Northern President, upon a sectional and anti-slavery issue, will be considered cause enough to justify secession. Let the Senator from New York [Mr. Seward], or any other man avowing the sentiments and policy enunciated by him in his Rochester speech, be elected President of the United States, and, in my opinion, there are more than one of the Southern States that would take immediate steps toward separation. And, sir, I am free to declare here, in the Senate, that whenever such an event shall occur, for one, I shall be for disunion, and shall, if alive, exert all the powers I may have in urging upon the people of my State the necessity and propriety of an immediate separation.

Whenever any one of the Southern States shall secede in vindication of her rights and honor, to protect her peculiar institution from the ruthless assaults of an anti-slavery majority in Congress, and an attempt be made to force her back into the Union, or enforce the decrees of an arbitrary and unfriendly Government, her surrounding sister States, sympathizing with her in her bold and manly struggle for liberty and the right, would not hesitate for a moment to come to her relief and join her in the assertion of an honorable independence and the formation of another and better Union. Such a movement would necessarily result either in the formation of a confederacy of all the slave States or to amendments of the present Constitution, placing their rights and equality upon a firmer and better basis than at present, as the condition upon which the seceding State or States would reunite with her former sisters. To attempt to force a seceding State back into the Union, with the surrounding States sympathizing with the feelings and causes which impelled her to secede, and interested in all that concerned her honor, her rights, and her independence, would be the veriest act of folly and madness which ever influenced or controlled a weak or wicked government. No, sir; the ties of this Union once broken and there would be but one basis on which they could ever be reformed—*concession from the North; security for the South.*

CHAPTER VI

JOHN BROWN'S ATTACK ON HARPER'S FERRY

John Brown Brings Fugitive Slaves to Canada and There Organizes a Band to Make War on Slaveholders and Their Sympathizers—The Band Seizes the Federal Armory at Harper's Ferry, Va.—It Is Captured by Virginia Militia—John Brown Is Sentenced to Death—His Defence of His Act—His Letter to His Wife—His Execution—Meetings of Sympathy in the North—"Union Meetings" in the North Denunciatory of Him and His Act—Speech of Charles O'Connor in New York: "Slavery Is Right!"—James M. Mason [Va.] Introduces in the Senate a Resolution to Investigate the Attack on Harper's Ferry—Lyman Trumbull [Ill.] Moves as an Amendment to Investigate Also the Robbery in 1855 of the Federal Arsenal in Liberty, Mo., by Pro-Slavery Men—Debate on the Motion and Amendment: Democratic Speakers, Senator Mason, Robert M. T. Hunter [Va.], Jefferson Davis [Miss.], John J. Crittenden [Ky.], Albert G. Brown [Miss.], Alfred Iverson [Ga.]; Republican Speakers, Senator Trumbull, John P. Hale [N. H.], Henry Wilson [Mass.], William P. Fessenden [Me.], Zachariah Chandler [Mich.]—Amendment Is Defeated and Resolution Carried—President Buchanan's Annual Message—It Treats of Harper's Ferry, the Dred Scott Decision, and the Slave Trade.

JOHN BROWN, the leader of the militant Free State men in the Kansas troubles, had fled the Territory when a reward for his arrest was offered by Governor of Missouri and President Buchanan. Taking with him seven companions, three of whom were slaves he had taken from their owners in Missouri, with their wives and children, he departed from Lawrence for the East early in January, 1859. Pursued by 42 mounted pro-slavery men, he turned upon them and put them to flight, capturing four of them, whom he released after five days, during which he had compelled them to pray night and morning. Brown was joined shortly after this "Battle of the Spurs," as the encounter was called, by his lieutenant, J. H. Kagi, with forty mounted men, seventeen of whom escorted him to Nebraska City.

Thence he crossed the Mississippi into Iowa and proceeded to Detroit, where he arrived on March 12. He crossed at once into Canada with the negroes of his party, who quickly established themselves as free laborers.

At Chatham, Canada West, on May 8, Brown gathered in a negro church a company of Abolitionists who adopted a "Provisional Constitution and Ordinances for the People of the United States," the preamble of which was as follows:

Whereas, Slavery, throughout its entire existence in the United States, is none other than the most barbarous, unprovoked, and unjustifiable war of one portion of its citizens against another portion, the only conditions of which are perpetual imprisonment and hopeless servitude, or absolute extermination, in utter disregard and violation of those eternal and self-evident truths set forth in our Declaration of Independence:

Therefore, We, the citizens of the United States and the oppressed people, who, by a recent decision of the Supreme Court, are declared to have no rights which the white man is bound to respect, together with all the other people degraded by the laws thereof, do, for the time being, ordain and establish for ourselves the following Provisional Constitution and ordinances, the better to protect our people, property, lives, and liberties and to govern our actions.

This constitution organized all men and women who accepted it, whether bond or free, together with their children, into a band who, holding all property in common for the good of the cause, were authorized to confiscate the entire personal and real property of slaveholders and of those who acted either directly or indirectly with them whether these were in the free or slave States. The final article read:

The foregoing articles shall not be construed so as in any way to encourage the overthrow of any State government or of the general Government of the United States, and look to no dissolution of the Union, but simply to amendment and repeal; and our flag shall be the same that our fathers fought under in the Revolution.

John Brown was chosen Commander-in-Chief; J. H.

of God Almighty!" which is reminiscent of Ethan Allen.

The trains which were turned back at the bridge bore the news to nearby telegraph stations, and forces of Virginia militia were soon on their way to the seat of insurrection. Brown's first plan had been to escape to the mountains with the arms and ammunition of the armory, but he later decided to make a stand at Harper's Ferry, trusting that the slaves would rise and flock to his standard. In this he was disappointed, not a negro joining him.

The armory was taken by the militia on October 18 at 7 a. m., after a stubborn resistance on the part of the Abolitionists, but four of whom were taken, the others who had not been killed in the assault making their escape. Among the prisoners was John Brown, who was knocked down with a saber blow in the face and twice run through the body with a bayonet while prostrated. Both of his sons were killed. The four prisoners were quickly tried at Charlestown, the county seat, and on November 1 were sentenced to be hanged. When asked if he had anything to say why sentence should not be passed upon him Brown replied:

In the first place, I deny everything but what I have all along admitted—the design on my part to free the slaves. I intended certainly to have made a clean thing of that matter, as I did last winter, when I went into Missouri and there took slaves without the snapping of a gun on either side, moved them through the country, and finally left them in Canada. I designed to have done the same thing again on a larger scale. That was all I intended. I never did intend murder, or treason, or the destruction of property, or to excite or incite slaves to rebellion, or to make insurrection.

Had I so interfered in behalf of the rich, the powerful, the intelligent, the so-called great, or in behalf of any of their friends, either father, mother, brother, sister, wife, or children, or any of that class, and suffered and sacrificed what I have in this interference, it would have been all right, and every man in this court would have deemed it an act worthy of reward rather than punishment.

This court acknowledges, as I suppose, the validity of the Law of God. I see a book kissed here which I suppose to be the Bible, or, at least, the New Testament. That teaches me

Kagi, Secretary of War; Owen Brown (son of John Brown) Treasurer; and Richard Realf (who was a man of literary attainments, writing poetry of the highest lyric order) Secretary of State.

Brown went to Cleveland, O., on March 20, and advertised two horses for sale, notifying intending purchasers that he had taken them along with the slaves from their owners, in order to facilitate the escape of the negroes. Despite this warning the horses brought an excellent price.

From Cleveland Brown journeyed eastward, visiting his family in Essex County, N. Y., and contracting for 1,000 pikes in Collinsville, Conn. On June 30, he and two of his sons turned up in the neighborhood of Harper's Ferry in the guise of wool-growers from western New York prospecting for a farm in a milder climate.

Now Harper's Ferry was the seat of a national armory.

After looking over the ground for several days, the Browns rented a large farm with three houses six miles from the village. From time to time other persons joined them, women as well as men, but, as they paid cash for everything, they were not regarded with suspicion by their neighbors. They seemed to spend their time chiefly in hunting, although it was remarked afterwards that they returned from their excursions with no game. Really they were occupied in spying out the country by day, and bringing in arms and ammunition by night.

On Sunday evening, October 17, John Brown and his men, twenty-three in number, seized the armory and the railroad bridge over the Potomac. Visiting the houses of Col. John A. Washington, proprietor of Mount Vernon, and a Mr. Alstadt in the vicinity, they took these gentlemen, together with their slaves, who were told they were free, and put them in the armory. Other citizens were captured and confined in the same place. In the morning the village, railroad and armory were completely dominated by armed sentinels, who answered the question of by what authority they had seized civil and national property with a phrase, "By the authority

that all things "whatsoever I would that men should do unto me, I should do even so to them." It teaches me, further, to "remember those that are in bonds as bound with them." I endeavored to act upon that instruction. I say I am yet too young to understand that God is any respecter of persons. I believe that to have interfered as I have done, as I have always freely admitted I have done, in behalf of His despised poor was not wrong, but right. Now, if it is deemed necessary that I should forfeit my life for the furtherance of the ends of justice, and mingle my blood further with the blood of my children, and with the blood of millions in this slave country whose rights are disregarded by wicked, cruel, and unjust enactments—I submit: so let it be done.

I feel entirely satisfied with the treatment I have received on my trial. Considering all the circumstances, it has been more generous than I expected.

His letter to his family, written a week after his sentence to death, is as follows:

I am quite cheerful, having (as I trust) the peace of God, which "passeth all understanding," to "rule in my heart," and the testimony (in some degree) of a good conscience that I have not lived altogether in vain. I can trust God with both the time and the manner of my death, believing, as I now do, that for me at this time to seal my testimony (for God and humanity) with my blood will do vastly more toward advancing the cause I have earnestly endeavored to promote than all I have done in my life before. I beg of you all meekly and quietly to submit to this; not feeling yourselves in the least degraded on that account. Remember, dear wife and children all, that Jesus of Nazareth suffered a most excruciating death on the cross as a felon, under the most aggravating circumstances. May God Almighty comfort all your hearts and soon wipe away all tears from your eyes. Think, too, of the crushed millions who "have no comforter." I charge you all never (in your trials to forget the griefs of "the poor that cry and of those that have none to help them." I wrote most earnestly to my dear and afflicted wife not to come on. First, it would use up all the scanty means she has, or is at all likely to have, to make herself and children comfortable hereafter. For let me tell you that the sympathy that is now aroused in your behalf may not always follow you. There is but little more of the romantic about helping poor widows and their children than there is about trying to relieve poor "niggers." Again, the

little comfort it might afford is to meet again would be dearly bought by the pains of a final separation. If she come on here, she must be only a gazing-stock throughout the whole journey, to be remarked upon in every look, word, and action, and by all sorts of creatures, and by all sorts of papers throughout the whole country. O Mary, do not come; but patiently wait for the meeting (of those who love God and their fellowmen) where no separation must follow. "They shall go no more out forever."

Nevertheless, Mrs. Brown went to Harper's Ferry, and, overcoming many obstacles, was finally permitted to spend a few hours in her husband's cell, and to take supper with him a short time before his death. The clergy of the neighborhood tendered him the solace of religion after their fashion, but their ministrations he civilly, but firmly, declined, since he could not recognize any one who justified or palliated slavery as a minister of the God he worshipped, or the Savior in whom he trusted. To one of them, who sought to reconcile slavery with Christianity, he said:

"My dear Sir, you will have to learn the A B Cs in the lesson of Christianity, as I find you entirely ignorant of the meaning of the word. I, of course, respect you as a gentleman; but it is as a *heathen* gentleman."

On the day of the execution (December 2), Brown rose at dawn and wrote until ordered out to execution. In his last statement he said: "I, John Brown, am now quite certain that the crimes of this guilty land will never be purged away but with blood." He walked to the gallows between files of militia, 3,000 of whom had been assembled to prevent any attempt at rescue. As he came out of the jail a negress, with her little child in her arms, stood by the door. Brown stopped a moment, kissed the child, and, without a word, passed on. Being asked on the way if he felt any fear he replied: "It has been a characteristic of me from infancy not to suffer from physical fear. I have suffered a thousand times more from bashfulness." Arrived at the gallows he remarked the absence of civilians, the presence of troops alone having been permitted. "That ought



JOHN BROWN EXHIBITING HIS HANGMAN
[Published in 1865, after the capture of Jefferson Davis]
From the collection of the New York Historical Society

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not to be," he said; "citizens should be allowed to be present as well as others."

After being kept standing on the scaffold for some time while the troops were deployed about it, the trap was sprung, but the fall was so short that it was more than half an hour before the body ceased struggling and life was pronounced extinct. His body was conveyed by his widow to their home in New York State, and there buried. In later years a simple monument was placed above the grave.

On the day of Brown's execution funeral bells were tolled and divine services were held in hundreds of Northern towns. On the other hand a number of "Union meetings" were held in the North shortly after the execution, in which the South was assured that the conservative men of the North repudiated the act of Brown and abhorred the fanatical Abolitionist spirit of which it was a logical, though fearful, result. One such meeting was held in New York on December 19, at which the first and chief speaker was Charles O'Connor, a distinguished lawyer. Sweeping aside all the familiar constitutional arguments, pro and con, on the slavery question as Brown had done, he based the issue on the morality of slavery—on which, however, he took the opposite side from that of the Abolitionist whose acts in accord with his view had brought him to the gallows.

"SLAVERY IS RIGHT"

CHARLES O'CONNOR

Is negro slavery unjust? That is the point to which this great argument, involving the fate of our Union, must now come. Is negro slavery unjust? If it violates that great rule of human conduct, "Render to every man his due," it is unjust. If it violates the law of God, which says, "Love thy neighbor as thyself," it is unjust. And, gentlemen, if it could be maintained that negro slavery is thus in conflict with the law of nature and the law of God, I might be prepared—perhaps we should all be prepared—to go with a distinguished man [Senator William H. Seward] and say there is a "higher law"

which compels us to disregard the Constitution and trample it beneath our feet as a wicked and unholy compact. . . .

I insist that negro slavery is not unjust. [*Cries of "Bravo!"*] It is not only not unjust, but it is just, wise, and beneficent. [*Applause and loud hisses. Cries of "Bravo!" and disorder.*] . . . I maintain that negro slavery is not unjust [*Cheers*], but that it is benign in its influences on the white man and the black. . . . We must no longer favor political leaders who talk about slavery being an evil; nor must we advance the indefensible doctrine that negro slavery is a thing which, although pernicious, is to be tolerated merely because we have made a bargain to tolerate it. . . . Yielding to the decree of nature and the voice of sound philosophy, we must pronounce the institution just, beneficent, lawful, and proper. . . . The negro, to be sure, is a bondman for life. He may be sold from one master to another, but where is the ill in that?

The speaker did not even recoil from the final conclusion of his premises: that the South would be justified in seceding from the Union "if the North continues to conduct itself in the selection of representatives in the Congress of the United States as, perhaps from a certain degree of negligence and inattention, it has heretofore done."

On December 5, 1859, three days after the execution of John Brown, Congress convened, and the first act of the Senate was, on motion of James M. Mason [Va.], to appoint a committee to investigate the insurrection at Harper's Ferry, in order to find if John Brown and his companions had planned the affair of themselves, or if there was an organized effort behind them, and, in accordance with these findings, to report upon what legislation was in their opinion necessary "for the future preservation of the country, or for the safety of the public property."

In speaking on this motion Northern Senators condemned the act of Brown and declared that the investigation would reveal that it had received no countenance nor support from any considerable number of persons. However, they could not forbear calling the attention of the Southern Senators to the fact that no investigation had been made into a similar attack upon a

Federal arsenal in the West when this assault had been made in the interests of slavery.

In this debate the chief Democratic speakers were Senators Mason, Robert M. T. Hunter [Va.], Jefferson Davis [Miss.], John J. Crittenden [Ky.], Albert G. Brown [Miss.], Alfred Iverson [Ga.]; and the chief Republican speakers were Lyman Trumbull [Ill.], John P. Hale [N. H.], Henry Wilson [Mass.], William P. Fessenden [Me.], Zachariah Chandler [Mich.].

THE CONSPIRACY OF JOHN BROWN

SENATE, DECEMBER 5-14, 1859

SENATOR TRUMBULL.—No man who is not prepared to subvert the Constitution, destroy the Government, and resolve society into its original elements can justify such an act. No matter what evils, either real or imaginary, may exist in the body-politic, if each individual, or every set of twenty individuals, out of more than twenty millions of people, is to be permitted in his own way and in defiance of the laws of the land to undertake to correct those evils, there is not a government upon the face of the earth that could last a day. And it seems to me, sir, that those persons who reason only from abstract principles, and believe themselves justifiable on all occasions, and in every form, in combating evil wherever it exists, forget that the right which they claim for themselves exists equally in every other person. All governments, the best which have been devised, encroach necessarily more or less on the individual rights of man, and to that extent may be regarded as evils. Shall we, therefore, destroy government, dissolve society, destroy regulated and constitutional liberty, and inaugurate in its stead anarchy—a condition of things in which every man shall be permitted to follow the instincts of his own passions or prejudices or feelings, and where there will be no protection to the physically weak against the encroachments of the strong? Till we are prepared to inaugurate such a state as this, no man can justify the deeds done at Harper's Ferry.

In regard to the misguided man who led the insurgents on that occasion I have no remarks to make. He has already expiated upon the gallows the crime which he committed against the laws of his country; and to answer for his errors or his virtues, whatever they may have been, he has gone fearlessly

and willingly before that Judge who cannot err: there let him rest.

Therefore, sir, I am for this investigation. I hope it may be thorough and impartial, and I believe the effect upon the country will be most salutary. Had a similar investigation been instituted when a similar transaction took place some years ago, this probably would never have occurred. The amendment which I propose to offer to the resolution which is pending, and in which, I trust, I may have the support of every Senator, provides for the investigation of a like transaction which occurred in the State of Missouri.

The speaker here recounted the circumstances of the seizure in December, 1855, of the Federal arsenal at Liberty, Mo., by a mob of pro-slavery men, and taking therefrom of arms and ammunition which were subsequently used against the Free State men of Kansas.

Then the complaints that were made were treated as the "shrieks of bleeding Kansas," and they could not be heard. I trust they may get a better hearing now. Now, sir, when the shrieks of Virginia are heard, and the ears of the country are opened, I trust those from Kansas may get a hearing also. I am prepared to hear both; and I hope that the investigation in regard to Harper's Ferry may be impartial, thorough, and complete, and let whoever is implicated in the unlawful transactions there be held responsible; and so, too, in regard to the seizure of the arsenal in the State of Missouri.

Senator Trumbull then offered to Senator Mason's resolution an amendment calling for an investigation into the Liberty arsenal affair.

Senator Mason, while implying that Senator Trumbull had an ulterior and partisan object in his amendment, the facts in the Liberty affair being on record, nevertheless declared that he was willing to vote for the proposed investigation.

He denied that there were "shrieks" from Virginia in regard to the John Brown affair, and reprobated the use of such language in regard to one sovereign state by the representative of another.

Senator Trumbull replied that if the term "shrieks" was indefensible in the case of a State, it was also in-

defensible in that of a Territory. He denied that all the facts in the Liberty arsenal affair and the Kansas outrages were known to Senators. If Senators knew them, they had not acted upon their knowledge. For example, if the Senator from Virginia had known that secret organizations were recruited in Virginia to go to Kansas in order to make it slave territory, he had paid very little attention to the matter.

Sir, the example which has been followed here at Harper's Ferry was set in Missouri. The cases are not altogether parallel. In one case the object was to extend slavery; in the other to extinguish it. In one case the persons engaged have been brought to the gallows and have suffered for their act; in the other case the men engaged have been rewarded by office. Sir, they are not parallel; but had the proper steps been taken four years ago I do not believe the Harper's Ferry affair would ever have happened. I think it owes its origin to our overlooking the outrages that were committed in the West, and to which honorable Senators paid very little attention at the time. Now, sir, I trust they may get that attention which they deserve, and that we may deal impartially and alike by all violators of the law, whether their object be to introduce or extinguish slavery. I will stand by the Senator equally in maintaining the Constitution of my country and the constitutional rights of all, as well in Virginia as in Illinois.

SENATOR HALE.—I am for the resolution, sir. I am for the amendment, but if the amendment is voted down I shall go for the resolution still. I am sorry that it has been introduced this week, because I wanted to keep up the era of good feeling until after Christmas. [Laughter.] As I have said, I am for the resolution, but I think it is faulty in one particular. I do not think it goes far enough. I think this is only dealing with the surface of things, and I think, sir, it will bother you somewhat when you come to appoint the committee after the resolution passes. I beg leave to say, sir, I do not want to go on the committee, for reasons which I shall state.

In the first place, I think that this committee should be a committee of learned men deeply versed in philology and psychology, too [laughter]—I beg gentlemen not to laugh until I get through—and theology. I think, sir, we ought to go to the bottom of this thing; and I think I have read in some speech an intimation that looks this matter right in the face, that goes to first principles. I have heard a speech, or, if I have not

heard it, I have read the report of it, in which a distinguished Senator [Mr. Douglas] said that the doctrine in the Declaration of Independence that "all men are created equal" does not mean what it says. I want some men versed in philology put on the committee, to know whether that does mean so or not. He says that, when it declared that "all men are created equal," it simply meant that in the time of the Revolution all British subjects were equal. Well, if that was the whole meaning of it, it was a harmless thing, and affords no sort of encouragement to those wild dogmas that these fanatics have been preaching.

Then there is another doctrine that I think deserves to be investigated, and that is one which some of these fanatics get from the Bible, which declares that God has made of one blood all the nations of the earth. Now, I want a theologian on the committee, to know whether that does not mean all white men.

I am a little embarrassed about this matter, and that is the reason why I do not want to go on this committee. I am pointed out as one of the culprits, one of the men aimed at in the resolution. I do not mean that the Senator means that; but the public papers all over the land have pointed me out. Now, sir, I am not here to plead to that charge, nor to demur to it, either; but I think you will see at once that, laying aside my want of other qualifications, it would not be right to put me on this committee; and I am not certain that all the members on this side of the House, who belong to the Republican party, are not disqualified from sitting on this committee in the same way; for it has been charged in some pretty high quarters that, if we were not directly concerned in it, the doctrines that we preach and promulgate tend inevitably and directly to just exactly the state of things which has been produced.

Well, sir, I think the committee should be charged with that inquiry, and they should be instructed to report whether there is any organized party in this country that not only helped this movement by the money and the arms they furnished, but whether there is not a great political party organized in this country that has preached doctrines which directly tend to these things. I think the resolution, if it is adopted, should go as far as that.

I believe, sir, that if this investigation could be made thorough; if a light like that which beams from the eye of Omniscience could penetrate the whole history of this affair, the blame, wherever it may be, if it is to be laid at the door of anybody else aside from the men who were engaged in it, would be found to lie somewhere else than at the door of the Republican party,

or of any considerable number of men who enjoy its confidence.

Sir, if this investigation takes place, and I hope it will and it is made pretty searching, I think you will find another fact, and one that I do not know that you will be very proud of. You will find something of the estimation and the affection which some of your Northern Democrats entertain for you, if you can find out how the news of this raid, as it is called, was received in some of the Northern States. Why, sir, some gentlemen, whom the tender solicitude of their constituents had left in the retirement of private life, free from the corroding cares of public station, I know, received the news of this outbreak in Virginia with a perfect yell of delight. They thought the time had come when there was something they could catch hold of to ride into power.

So far as I know, so far as my knowledge of the public men with whom it is my pride to associate is concerned, they have never made, and never will make, an appeal to slaves. They do not address them. It is not one of the instrumentalities by which they propose to work. Their appeal, so far as I know, is to the enlightened conscience and the patriotism, not of the slaves, but of their masters; of those who hold the destinies of this country and are responsible for the manner in which the Government is administered. The appeal, so far as I know or have any cognizance, which the Republican party has ever made and which it makes to-day, is to the understandings, the consciences, the intelligences, and the patriotism of those who, under God, are responsible for the manner in which the affairs of the Government are administered, and they have never made or countenanced any appeals to slaves.

I am free to say, sir, that, while I desire now, as I always have desired, that this Union may be perpetual, I confess that I do see danger to it. I do not see danger from anything we are doing in the free States—not the slightest; but I do see danger to this Union from the continual obloquy, reproach, and crimination which is heaped upon the people of the free States every time that there is anything calling attention to the subject in the South. Why, sir, take this very fact—and let it be everything that has been said of it, and I doubt not it is—of twenty-two men, more or less, doing what they did in Virginia. Instead of its being met by the public sentiment, and the public press, and the public authorities, as the act of the men who did it, it was distinctly and directly and unequivocally over and over again charged upon other men, with all the confidence that it could have been if they had had a judg-

ment of the highest court in the land that it was the fact—charged upon men who knew as little about it as the child that is to be born a century hence. I think we must exercise a little forbearance. I do not ask gentlemen of the South to exercise forbearance; but we are the party from whom forbearance should come. Sir, we have forborne, and we have had contumely and reproach and bitter accusation day after day, and month after month, and year after year, heaped upon us. There is where, I think, the danger to this Union exists. I do not see, for myself, how Southern gentlemen can consent to live in a Union if they believe that those who are associated with them are the characters which the public press represent us to be; if we are so utterly false, not only to the oaths we have taken to support the Constitution, but to the moral obligations which ought to bind men as patriots and Christians. If the sentiment that we are so utterly wanting in all those qualities of character is to be continually and eternally iterated and reiterated, from one end of the section of the country where these transactions may take place to the other, there will be a feeling generated that will be fatal to this Union.

SENATOR HUNTER.—The public mind of the South has been startled, not so much by the foray of Brown and his twenty-three men, as by the open sympathy and approbation which have been manifested in portions of the North in regard to that attempt, and the apparent indifference with which it has been treated by those whom we had a right to hope would have been more conservative in their feelings and actions upon such a subject.

Senator Hunter then instanced the amendment of Senator Trumbull as intended to impart a political complexion to a matter affecting not only the rights of a State but the peace of the country.

If gentlemen here think it is improper to institute such an inquiry; that our peace and safety, and our lives and property, are the cheap subjects upon which any man and any adventurer may try his experiment—let us know it. If they think that this question does not rise beyond the dignity of a mere party dispute, and are willing to prevent its proper consideration by such discussions and mode of treatment—let us know it. It is time that we were made aware of such a state of feeling in regard to our rights, our peace, and honor, if in truth it exists. Still less had we supposed that such question was to be met

with the levity of the Senator from New Hampshire [Mr. Hale]. Why, sir, upon such occasions as these, upon such an occasion as this—I will not say as these, for it has no parallel in the history of our Government—to see such a subject treated with the levity in which he is disposed to deal with it sounds to me, at least, like the laugh of the inebriate or the insensate in the chamber of death itself. I tell him, sir, that much depends upon what is the real state of Northern feeling in regard to these matters. We know we can defend ourselves against such outrages as this; against the forays of men who may get up such expeditions as these, and attempt to get up servile war among us; we hope we can defend ourselves against all the hazards to which we may probably be exposed; but it becomes a much graver question to say how we are to deal with the subject if we become convinced that such attempts find support, not only in the sympathy of the great mass of the North, but in contributions that may actually be raised for their assistance.

My colleague proposes that a committee shall be appointed to inquire whether there may not be some remedy for it. If there be no remedy (as he has intimated as his opinion), so far as the State is concerned, to be found in the powers of the general Government, is it too much that we should expect, from the sympathy and the sense of duty of our co-States, that they should do something to put down such combinations? If a filibustering expedition be gotten up against a foreign state, we have laws by which it may be suppressed and punished; but is it to be said that here, under the sanctions of a Union, such things may be done in our confederated States, and that there shall be no law, either State or Federal, by which to punish or suppress them? Is this common Government, this Union, to be used only to stay the arms of the States for the purposes of self-defence, and give us no means of protection against outrages on our peace and our property, on the part of our confederates and brethren? If this common Union is to become an instrument of offence, instead of defence, in the hands of our allies, it is time that we should know it. If there be no power here to prevent such things, is there no disposition in the co-States, is there no disposition in those States to whom we are bound by the bonds of union and a common Government to repress and suppress them? Would not the dictates of common humanity induce them to do it, if there were nothing in those higher obligations of belonging to the same family and of being members of the same Union? If the power be wanting in the one and the disposition should not exist in the other, it

is plain that we have but one remaining source of defence and must look to ourselves.

SENATOR DAVIS.—Mr. President, mingled with the regret I have felt at the tone in which this matter has been discussed by the two Senators on the other side of the Chamber who have spoken, there has been at least one gratifying fact; and that is the distinctness with which they disavow for themselves and their friends any complicity in the transaction. I thought one of the great inducements we had to the consideration of the subject was to exonerate the Senate, if it were guiltless, of any connection with an act which stands out prominently as the first—I hope it may be the last—of those violent proceedings which can only be considered civil war. The newspapers have connected prominent individuals in the Northern States; they have not spared Senators themselves in this connection. The Senate owes it to the country—a duty to itself, a duty to the Government of which it is an important and conservative part—that it should inquire to the bottom and see whether its body is involved in any such corruption as has been intimated. That, I confess, was my great desire for the inquiry.

Can the Government continue, should it continue, as the mere shield to protect one portion of the United States in making war upon another? Can the citizens of Virginia allow the citizens of other States, under the privileges and immunities which the Constitution secures, to invade their peace and disturb their domestic relations? Far better, if such is the motive which prompts them, that they were foreign governments, with police stations along each border, and passports required with such inquiry into the character of persons coming in as would secure to peaceful women and helpless children immunity from the incendiary and the assassin.

I trust, sir, there will be no disposition on the part of the Senate to embarrass or to postpone an inquiry which they owe to themselves, and which is so essential to the country. As to the Liberty arsenal transaction, it has no parallelism with the case on hand. The two are not in any essential degree alike. An armory was attacked at one place; an arsenal at another. Arms were taken from both, and there all likeness ends. It does not appear, it never was alleged, that those who went to Liberty and seized arms intended to hold the arsenal as a strong place where they might resist the community among whom it was situated. They went to get arms and ammunition and to go with them elsewhere, where that which might be fairly denominated civil war was already raging. Again, when they got

the arms they went away, and afterward returned them—showing no purpose to steal, but to seize them for a time for use in a border warfare, which none will attempt now to justify. As to where the *onus* of blame lies for the existence of that war, that is a different question, and it is beneath the dignity of the object of our present consideration to go into it.

We, Mr. President, look to this Government that it may show its good faith to the obligation which the Constitution imposes, to protect us in our rights of person and property as far as the Federal functions extend. We expect of the Federal Government, in consideration of the fact that the States offer no barrier to the migration of individuals from other States, that it will see that lawless mobs do not go forth to disturb the peace of their neighbors. This Government was instituted to protect the people against the invasion of their rights from any quarter whatever. The President is empowered by the Congress to call out the militia to suppress insurrection and repel invasion. That word "invasion" once had a signification which carried the mind simply to foreigners alone. God forbid we should ever come to learn that it means likewise a portion of our own brethren; and may He also forbid that the time shall ever come when we shall have an Executive who would shrink from the performance of that duty with the directness, manliness, and honesty which have been displayed by James Buchanan.

Senator Crittenden, in accordance with his well-known character as a peacemaker, sought to shut off the debate, which promised to become one of the most acrimonious in the annals of Congress, by stating that, while in his opinion all the facts in the attacks on the Virginia armory and the Missouri arsenal were already known, nevertheless he thought gentlemen should agree to investigate both cases, and let the matter rest until the reports of such investigations were made.

His wise advice was not followed. Senator Wilson felt called on to explain that the public sympathy in the North with John Brown was elicited by his sincerity and courage, and not by his fanatical principles. Had the Senator stopped with this declaration the policy of Senator Crittenden might have been adopted. But he went farther, and claimed that with this sympathy was mingled indignation at the conduct of Gov. Henry

Alexander Wise, of Virginia, who, in a message to the legislature of his State, had held the Republican party responsible for John Brown's act.

Had Governor Wise dealt with this question as a wise and discreet magistrate; had these parties been brought to trial at the proper time, and tried fairly; had he sent a few constables, or perhaps a few armed men, there to preserve order; had he held these parties responsible, and not attempted to implicate men for partisan purposes in complicity with it; had he dealt with this question as it should have been dealt with by a discreet and proper man, who had no ulterior purpose to gain, what we witness in this country to-day would never have taken place.

Senator Brown was aroused by these remarks to charge that Senator Wilson had been present at a large "John Brown meeting" at Wilson's home in Natick, Mass., on November 20, and that he had been silent when the following resolution was passed:

Whereas, resistance to tyrants is obedience to God; therefore,

Resolved, That it is the right and duty of the slaves to resist their masters, and the right and duty of the people of the North to incite them to resistance, and to aid them in it.

Senator Wilson then stated that, shortly before the meeting at Natick, he had made a speech there in which he reprobated John Brown's act, and that the Abolitionists present had announced to him that they would hold a meeting to express dissent with his views. At this latter meeting the resolution referred to was presented by a visiting speaker, Henry C. Wright, "a Garrison Abolitionist, a profound disunionist, a no-government man, and a non-resistant," who made "a non-resistant speech in favor of resistance" (*Laughter*) explaining how emancipation could be accomplished without bloodshed, for, said he, "I would not shed a drop of human blood to free every slave in the country." Said Senator Wilson:

After he closed his speech the question was put, and perhaps fifteen or twenty persons in that meeting of seven or eight hun-

dred voted for the resolution. All the rest, feeling that Mr. Wright's friends had paid for the hall and got up the meeting for him and for themselves, took no part for or against him. They did not interrupt the meeting, believing, as they did and as we do in our part of the country, in the absolute right of free discussion of all questions. When the meeting adjourned the general expression was that the resolution was a very foolish one, and that Mr. Wright and his friends were alone responsible for it. Nine-tenths of that meeting took no part in it. They did not wish to interrupt the meeting or interfere with it in any way whatever or be responsible for it. There were present gentlemen as sound on the slavery question as the Senator from Mississippi could desire. The postmaster of that town is as sound on the slavery question as the Senator from Mississippi, and often manifests his zeal in defence of the policy of the slave power; but he did not say a word, nor did those who act with him, because nobody wished to interfere with those who had invited the speaker there, and who agreed with him in his general opinions. Senators should remember that the right to hold meetings and to utter opinions upon all matters of public concern is an acknowledged right in my section of the country. They should remember, also, that the people in that section often attend meetings where subjects are discussed in a way they do not sanction; but they do not think it becomes gentlemen to interrupt such meetings, or interfere with those who differ from them. Often do I attend such meetings and listen to what is said, without feeling myself in any way responsible for what is said or done. So do the people of my State; I wish the people of other sections of the country would thus cherish the sacred right of free discussion.

Senator Brown at this time professed himself satisfied with Senator Wilson's explanation, though later he returned to the charge.

Senator Mason, however, rose to attack Senator Wilson for his charge against Governor Wise.

Mr. President, it was the pleasure of the honorable Senator from Massachusetts to arraign the conduct of the Governor of Virginia in his action. It was the pleasure of the honorable Senator to impute to him, acting within the limits of Virginia, as the chief magistrate of Virginia, a sinister and unworthy purpose in what he did. It was the pleasure of the Senator to say that the Governor had in view, not the discharge of his public

trust to the people who placed him there; but that he had in view some selfish purpose of making political capital in what he did. Mr. President, the people of Virginia are the only political community to whom the Governor of Virginia is responsible. I have not heard one word of doubt expressed in the State of Virginia by anybody, of any political party, as to the propriety, expediency, and wisdom of the conduct of the Governor of Virginia in taking care that the laws of Virginia should be respected and should be enforced. Sir, the very opposite was the fact. If the Governor of Virginia, when such an outrage was practiced upon the sovereignty and the soil of that State as was attempted by these vagabond instruments of people elsewhere, had run the remotest risk that they should not have expiated their crime under the laws of Virginia, he would have met and would have deserved the execration of the people of Virginia. Sir, it was an occasion when no risk should be run; there should exist no possibility that in any mode that wretched vagabond, Brown, should escape the just doom that he deserved. It was for that reason that he brought there, properly, the large military force present in the county where the outrage was committed and where the execution took place. It was to put all possibility of rescue at defiance. I can tell the honorable Senator there is no disputing about taste; there is no correcting taste; and if the honorable Senator thinks that even his constituents will justify him in gratuitously and without foundation arraigning the Governor of a State who is discharging his duty within the limits of his State, taking upon himself, as the representative of another State, to ascribe to him a sinister purpose in discharging a duty at home, I trust that he misconceives the spirit of his own people when he stands as their exponent thus.

Senator Mason then supported his charge that John Brown and his men had been "the vagabond instruments of people elsewhere."

I know nothing about the man, except the public notoriety he has obtained as a ruffian, a thief, and a robber—nothing more; but it is part of his history itself that he had been a vagrant for years; that he was poor; that he had no resources of his own; his will, that was published here the other day in one of the papers, shows that he had no resources of his own; but he brought resources there for the purposes of this insurrection, proportioned to it, and costing a large sum of money. We want to know where that money was supplied. We want to know the

incentives that led him to that expedition. We want to know the state of public sentiment, notwithstanding gentlemen representing the Northern States say here that they disapproved it or condemned it. We want to get at those thousand rills which go to make up public sentiment, and which resulted in furnishing an adequate treasure to send a ruffian, with an armed band, and arms enough at his command and in his power to place them in the hands of the slaves, certainly to the amount of two thousand, within one hour after he had collected them. These are facts that we want to get at by this inquiry.

Senator Iverson replied to Senator Wilson's statement that the sympathy of the North with John Brown was due only to his courage.

We might quote thousands of instances where men have died on the gallows, the scaffold, or the cross, or have been gibbeted, who have exhibited some of the finest traits of the human character—bravery and fortitude. Did they excite the sympathy of these men? Ah, sir, Brown died because he was the enemy of slavery, and they can see a great many causes of sympathy in his case which they never thought of feeling or suggesting in the case of others.

Who is John Brown that he should excite the sympathy of any honorable man? A man who, in Kansas for five years, was engaged in no other business but theft and robbery and murder; a man who in cold blood could take out men from their beds at night and, in the presence of their wives and children, murder them upon the spot—that is the man for whom you have sympathy, because he has shown courage.

But, sir, the sympathy extends much beyond the mere personalities of Brown's character. It cannot be disguised that the Northern heart sympathizes with Brown and his fate, because he died in the cause of what they call liberty. There is the truth, and it is unnecessary to disguise it; and no declarations made here or elsewhere can close the eyes of the Southern people to the fact. Look at the conduct of the legislature of Massachusetts. On the 2d day of this month, at the time Brown was to be executed, a proposition was made in the Senate of the State of Massachusetts—grave and dignified body—to adjourn in honor and commemoration of him who was about to be executed for a bloody crime, for theft and robbery and murder, the most heinous crimes that can disgrace humanity; and eight members of that dignified body voted for an adjournment, and the propo-

sition was lost by only three votes. Is that no evidence of sympathy with Brown and his designs? What means the expression of the public press of your party in the Northern States? Look at the *New York Tribune*; you acknowledge that as your organ; it speaks the sentiments of your party. Has it expressed no sympathy for Brown? Show me a paper, any respectable journal of the Republican party, in all the Northern States, that has condemned the act of John Brown; except it is the one that is said to be controlled by one of the Senators from Rhode Island [Mr. Anthony]; and he is entitled to my approbation for his course on this matter, at least, and to the approbation of the Southern people.

But, sir, the tone of sentiment of the Republican press throughout the whole North is sympathy for John Brown and his failure—failure to do that which, if he had succeeded, would have rent this Union asunder. Sir, it is needless to disguise the fact; Senators on this floor may disclaim as much as they please, but their acts speak louder than words.

Here the speaker referred to the candidacy for Speaker in the House of Representatives of John Sherman [O.], who had endorsed Hinton R. Helper's inflammatory anti-slavery book on "The Impending Crisis." Owing to the strenuous opposition of Southern Representatives which they manifested in a fiery debate on the contest, the candidacy of Sherman was withdrawn and William Pennington [N. J.], a conservative Republican, was elected Speaker. Senator Iverson continued:

The truth is that it is the intention of the Republican party—their public press avows it, and their political course shows it—it is their settled design to break down the institution of slavery by fair means or foul means; and if they cannot accomplish it in one way they intend to accomplish it in another. If they cannot accomplish it by appealing to the slaveholders themselves, they mean to accomplish it by appealing to the slaves.

I tell Senators that the Southern people are becoming aware of the intention of the Republican party. I know how strong that party is, and the Senator from New Hampshire has very properly said that even the Democrats of the North, some of them, at least, have rejoiced at this incident at Harper's Ferry, because it may have a political bearing in their behalf. I wish that was the only reason and the only motive which many of

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the Democratic party of the North have had for rejoicing over what has occurred at Harper's Ferry; but I am afraid that too many of them sympathize against slavery, and are willing to put it down by any means. I am afraid that too many of the Democratic party of the Northern States are going over to the Black Republicans, because the Black Republicans have exhibited more zeal and determination in their war against slavery than the Democratic party itself has. I wish the Democratic party was purer and better than it is. I am afraid that it is becoming itself, if not corrupt, at least corruptible. But, sir, the South will be able to take care of itself like Virginia. In the pride and power of her sovereignty she has spurned all assistance, and stands to-day vindicated as a sovereign State. We are able to protect ourselves, and we intend to do it; and, whatever may be your political action and course against the South and her institutions, rely upon it we shall be prepared to defend ourselves to the last extremity, even at the sacrifice of the Union, which you all pretend so much to revere.

SENATOR HALE.—I do not want to occupy the attention of the Senate; but the honorable Senator from Georgia has made a statement at the close which does honor to his heart. I, for one, certainly freely forgive him for all the injustice he did the Republicans for the little modicum of justice which he did the Democrats. [Laughter.]

In reply to Senator Iverson's charge that the North had expressed no sympathy for Virginia, in her crushing an insurrection against not only herself but the Federal Government, Senator Fessenden said:

Gentlemen ask why have we not heard of public meetings tendering aid to Virginia in this matter. Because the people of the free States thought the tender of aid to Virginia would be a gross insult to Virginia. Think of the idea of holding meetings in the free States to tender aid of men and money on the occasion of a foray made by some twenty-odd men, the greater number of whom were killed almost at once and the rest of whom were to be hanged in a very short time! Why, sir, we can hardly understand what the occasion of all this alarm was. We thought the result of this expedition would be to strengthen the State of Virginia, and every other State, against which any such expedition might be directed. The men who composed the expedition were conquered; the largest portion of them were killed on the spot; the rest were in the hands of the

State authorities; the slaves did not rise; they had proved, as the Senator from Virginia says, their loyalty; there was no danger anywhere, no reasonable ground for apprehension, that we could see, from any quarter.

SENATOR IVERSON.—The Senator misunderstood me. I did not have any reference to a want of tender of aid. No, sir; I said that no parties at the North had given any public demonstration of sympathy for Virginia and the South. Virginia would have considered it an insult to have aid tendered to her. She was able to take care of herself.

Senator Fessenden then addressed himself to the charge of Senator Hunter that the North and its Senators approved of John Brown's act.

I represent the public sentiment of my State. Sir, from the beginning to the end, from the time this affair happened down to the present day, although I have conversed with all classes of men, I have not met the first man of any party, of any sect, who has not denounced the act of John Brown and his associates as criminal in the highest degree, and who has not said that in the eye of the law—leaving out of the question magnanimity and all which might address itself to the minds of the people of the State of Virginia and the executive of that State—that, in the eye of the law, if John Brown was a sane man when he committed those acts, he deserved death; and that I will venture to say is the all but universal sentiment of the people of the States of this Union, and yet gentlemen refuse to hear it.

Gentlemen of the South, if you give us an opportunity to unite in the investigation, we shall endeavor to aid you. Even if you shall endeavor to do it yourselves in your own way, and to your own extent, I trust that you will succeed, and that there will be an end to everything of this description; but I beg Senators here, and I beg those whom they represent elsewhere, to remember that nothing is to be gained by denunciations of opponents. We are not to be put upon the defensive. We are not responsible, and we do not mean to admit our responsibility in one way or another. We stand as clear and as clean and as pure, with reference to this matter, as the most ultra-slavery man among you. We have our objects, constitutional, legal, as we believe, rightful. They are avowed by us as a party; we have stood by them; and let me tell Senators that, in spite of all the excitement which may be raised on this question, we are prepared to stand by them yet.

Senator Brown, while reiterating that he accepted the repudiation of John Brown's act by Northern Senators, held that the act was not repudiated by the North in general, but, on the contrary, was endorsed.

Is it usual for notorious malefactors, murderers, robbers, and traitors to have sympathy expressed for them through the leading journals of the Senator's party at the North?

If John Brown, instead of engaging in a foray against slavery, and against the peace and quiet of Virginia, because she was a slave State, had made a similar foray into Massachusetts, with a view of overturning the government of that State, would the *Tribune*, would the *Evening Post*, would other Republican journals have expressed the sympathy for him which they have expressed? Would New England clergymen have called their congregations together in prayer-meetings for the soul of such a man? Would there have been in public meetings, religious and political, the same sympathy expressed for him which we have heard? Suppose an expedition should be fitted out from Virginia and Carolina to go and capture the armory at Springfield and hold it with the avowed object of overturning the government of Massachusetts, and the whole government of the New England States and of the North, and planting slavery there; then suppose, when you had captured the leader and gibbeted him upon the gallows, the Southern people should hold meetings, religious and political, to express sympathy with the man; suppose every wind that swept from the South should bring upon its wings the tolling of Southern bells over the fate of such a man: Senators of New England, what would be your conclusion? Suppose I came before you under such circumstances, professing that I had no sympathy with this man, that my people had no sympathy with him: what would be your reply? "Why, sir, we believe you speak honestly." I am sure you would say so to me; but you would ask, as I ask you, why have you not rebuked these things at home? You did not owe it to Virginia, you did not owe it to the South to say anything; but you will allow me to say that I think you owed it to yourselves. Why allow the impression to become almost universal in the South that the sympathy expressed for this wretched old man was a reflection of Northern sentiment? Why do you not rebuke your newspapers now? Why is the *Tribune* allowed from day to day to offend even your sentiments, the sentiments of every honest man in the whole community, by holding up this man Brown as a martyr to the sacred cause of liberty?

excite my suspicion, that after all they do sympathize with forays into the slave States for the purpose of overthrowing their institutions.

This much I will say, in reference to the wretched old man who died on the gallows at Charlestown: he was less guilty than the great men who prompted him to his misconduct. The "irrepressible conflict" could end nowhere else. You encouraged him on to madness, and by your counsels and your conduct to deeds of desperation, and then you disavow the deeds. Let the whole conduct change; let the "irrepressible conflict" cease by your own acts; come to learn that Virginia has all the rights in the Confederacy that belong to Massachusetts; that she has as much right to have slaves as Massachusetts has not to have them; that they are equals, and exact equals in all regards; learn that principle, cherish it, and practice upon it, and you will have no occasion to sympathize with John Brown for outrages such as that which we all protest against and deplore.

SENATOR CHANDLER.—The Senator from Mississippi [Mr. Brown] asks what would you say if Virginia and Carolina were to attack the armory at Springfield. I do not know what is the population at Springfield, but I will guarantee that if seventeen or twenty-two of the generals, not captains (they say these men were to be captains) of the States of Virginia and North Carolina were to attack Springfield, if there was not a man within five thousand miles of there the women would bind them in thirty minutes, and would not ask sympathy, and the matter would not be deemed of sufficient importance to ask for a committee of investigation on the part of the corporation. Why, sir, Governor Wise compared the people of Harper's Ferry to sheep, as the public press states. It is a libel, it is not true, for I never saw a flock of fifty or a hundred sheep in my life that had not a belligerent ram among them. We do not understand this case, sir. We understand no such panic as this. If seventeen men were to attack the city of Detroit in any capacity, and the mayor should appoint as a guard more than seventeen constables to take care of them, the city auditor would decline to audit the account.

The facts in this case, as they appear to be, are these: The fugitive slaves at Chatham, in Canada, got together some time—I do not know when—and organized a provisional government for the United States. There are, I understand, about sixty thousand fugitive slaves in the Province of Canada. They got together in Chatham, in Canada, and there resolved to organize a provisional government for these United States. They did so;

What, then, is it that elicits all this sympathy for him? It is not for John Brown, heroic as you have said he was, but it is for the cause in which he was engaged. He came to levy war upon a slave State, to murder slaveholders, because they were slaveholders. It is for that, and that alone, that sympathy has been elicited.

A meeting was held at Natick, at which the Senator from Massachusetts [Mr. Wilson] was present. He has disclaimed all sympathy with it. I am willing to believe that he feels no sympathy with it; and yet he failed to rebuke it. Suppose I had attended a public meeting where resolutions were passed hostile to your interests, advising forays across your borders, making war upon your people, would it be satisfactory for me to come a month afterward and say that I was there, but did not approve of the resolutions? So far it would be well; but would you not think it was my duty at the time to have said as much, to have warned my neighbors and friends, to have used the potential voice of an American Senator to rebuke such madness at the right time and in the right place?

If, then, we have been led into error, as I trust we have been, there is yet time enough to put it right. Let the future prove not only that you are sincere in your own declarations, as I do not question that you are, but that you are not mistaken in the sentiment of your own people. Let this open and undisguised sympathy with a murderer, with a traitor, cease and cease at once. Tell your editors, tell your Horace Greeleys and your Thurlow Weeds that the course in which they are proceeding is treasonable—treasonable to the country, treasonable to you; that from your high places here in this great national council-house you will denounce them unless they cease their persistence in such folly. Let us have that. Let your people assemble in meetings and repudiate the reproach which even you yourselves must admit has been cast upon them. Let that be done. Let the Republicans of Boston, of New York, of Philadelphia, and everywhere where these meetings have been held and the firing of cannon has been heard, assemble in mass meetings as Republicans and rebuke the whole thing. They will not do it. Gentlemen may protest and continue to protest, but the "irrepressible conflict" will go on. Whenever the Northern people shall, in public meetings or in public elections or in any other manner which an intelligent man can accept, rebuke this thing, I shall be as ready to do them justice as those who represent them immediately on this floor; but their silence, their silence under extraordinary circumstances, under a most extraordinary state of facts, does

and they sent as their agents—this I gather from newspaper accounts—to put their government in motion, John Brown and sixteen other white men and five negroes, without any hopes of support from any source. Now, gentlemen ask, where did all these funds come from? All that was needed would amount to about probably twenty cents on each head of your own fugitive slaves in Canada; and yet the great Republican party of the North, representing one million three hundred thousand voters, is to be charged with complicity in this miserable fugitive slave government established at Chatham some time—God knows when, and I do not know nor care. Sir, it is too ridiculous. I cannot treat it with any sort of serious consideration.

The Senator from Georgia states that your Northern allies are in a hopeless minority. Well, sir, that is true. You have crowded them a little too far. You have left their bones bleaching all over the land. They are politically dead, hopelessly dead, beyond any resurrection. The trumpet of the archangel will never reach them politically. You have crowded them too far, sir. You have forced them to vote for your Lecompton constitution. You forced them to vote for the repeal of the time-honored Missouri compromise. You have kept the "nigger" eternally before them, and, whether he was acceptable or obnoxious to them, you made them swallow the "nigger" in large or small doses as you saw fit to present him, and it has been a fatal dose; you have given too much.

Sir, I hope this resolution will pass unanimously, and I hope the action of this committee will be effective. I hope it will be searching and thorough, and, my word for it, some other party than the Republican party will come up delinquent under its action.

On December 14 the resolution of Senator Mason and the amendment of Senator Trumbull came to a vote. The amendment was rejected by 22 yeas and 32 nays, and the resolution was unanimously adopted.

President Buchanan's annual message to Congress appeared on December 19, 1859. It opened with an attempt to allay the bitter hostility which had arisen over the John Brown affair between the two sections, and had been displayed before his troubled eyes in the Senate. The allusion in it to himself as "an old public functionary," whose heart felt for the whole country, was not taken kindly by the Republicans, who blamed the President for the part he had played throughout his

long public career in aiding the South against the North in the extension of slavery, and they seized the opportunity of nicknaming him "Old Pub. Func." in derision.

THE WARNING OF HARPER'S FERRY

PRESIDENT BUCHANAN

While it is the duty of the President "from time to time to give to Congress information of the state of the Union," I shall not refer in detail to the recent sad and bloody occurrences at Harper's Ferry. Still, it is proper to observe that these events, however bad and cruel in themselves, derive their chief importance from the apprehension that they are but symptoms of an incurable disease in the public mind, which may break out in still more dangerous outrages, and terminate at last in an open war by the North to abolish slavery in the South. While, for myself, I entertain no such apprehension, they ought to afford a solemn warning to us all to beware of the approach of danger. Our Union is a stake of such inestimable value as to demand our constant and watchful vigilance for its preservation. In this view let me implore my countrymen, North and South, to cultivate the ancient feelings of mutual forbearance and good-will toward each other, and strive to allay the demon spirit of sectional hatred and strife now alive in the land. This advice proceeds from the heart of an old public functionary, whose service commenced in the last generation, among the wise and conservative statesmen of that day, now nearly all passed away, and whose first and dearest earthly wish is to leave his country tranquil, prosperous, united, and powerful.

We ought to reflect that in this age, and especially in this country, there is an incessant flux and reflux of public opinion. Questions which in their day assumed a most threatening aspect have now nearly gone from the memory of men. They are "volcanoes burned out, and on the lava and ashes and squalid scorie of old eruptions grow the peaceful olive, the cheering vine, and the sustaining corn." Such, in my opinion, will prove to be the fate of the present sectional excitement should those who wisely seek to apply the remedy continue always to confine their efforts within the pale of the Constitution. If this course be pursued the existing agitation on the subject of domestic slavery, like everything human, will have its day and give place to other and less threatening controversies. Public opinion in this country

is all-powerful, and when it reaches a dangerous excess upon any question the good sense of the people will furnish the corrective and bring it back within safe limits. Still, to hasten this auspicious result at the present crisis, we ought to remember that every rational creature must be presumed to intend the natural consequences of his own teachings. Those who announce abstract doctrines subversive of the Constitution and the Union must not be surprised should their heated partisans advance one step further and attempt by violence to carry these doctrines into practical effect. In this view of the subject it ought never to be forgotten that, however great may have been the political advantages resulting from the Union to every portion of our common country, these would all prove to be as nothing should the time ever arrive when they cannot be enjoyed without serious danger to the personal safety of the people of fifteen members of the Confederacy. If the peace of the domestic fireside throughout these States should ever be invaded—if the mothers of families within this extensive region should not be able to retire to rest at night without suffering dreadful apprehensions of what may be their own fate and that of their children before the morning—it would be vain to recount to such a people the political benefits which result to them from the Union. Self-preservation is the first instinct of nature; and therefore any state of society in which the sword is all the time suspended over the heads of the people must at last become intolerable. But I indulge in no such gloomy forebodings. On the contrary, I firmly believe that the events at Harper's Ferry, by causing the people to pause and reflect upon the possible peril to their cherished institutions, will be the means, under Providence, of allaying the existing excitement and preventing future outbreaks of a similar character. They will resolve that the Constitution and the Union shall not be endangered by rash counsels, knowing that, should "the silver cord be loosed or the golden bowl be broken" . . . "at the fountain," human power could never reunite the scattered and hostile fragments.

The President followed this kindly advice by congratulations upon the Dred Scott decision as settling "principles of Constitutional law so manifestly just in themselves and so well calculated to promote peace and harmony among the States," and by the assurance that the cases of those engaged in the slave trade, especially the case of the *Wanderer*, were being "rigorously prosecuted."

Says Horace Greeley in his "The American Conflict":

This opinion of the justice of the decision of the Supreme Court in view of the emphatic dissent of every constitutional lawyer among the Republicans, and this statement of the rigorous prosecution of the owner of the *Wanderer* in face of the facts in the case, were not calculated to arouse in the North that spirit of fraternity toward the South which the President professed to desire, but, instead, kindled there the greatest indignation against both the President and the section of the country which he was serving so efficiently and with such partiality.

CHAPTER VII

"THE DEATH-KNELL OF POPULAR SOVEREIGNTY."

Southern Senators Plan to Read Senator Stephen A. Douglas [Ill.] Out of the Democratic Party—Jefferson Davis [Miss.] Introduces Resolutions in the Senate Repudiating Douglas's Doctrine of Popular Sovereignty—Debate on the Resolutions: in Favor, Senator Davis, Graham N. Fitch [Ind.], Robert Toombs [Ga.]; Opposed, Daniel Clark [N. H.], Senator Douglas.

THE Southern Senators determined to block the aspirations of Stephen A. Douglas [Ill.] to the Presidency by "reading him out of the party." Accordingly, as planned by a caucus of the Administration, or "Lecompton" Democrats, Jefferson Davis [Miss.], on February 2, 1860, submitted a series of resolutions to the Senate, reiterating the "Test Resolutions" once offered by John C. Calhoun, and adding thereto the following, which repudiated Senator Douglas' "Freeport Doctrine" of "unfriendly legislation."

Resolved, That neither Congress, nor a territorial legislature, whether by direct legislation or legislation of an indirect and unfriendly nature, possesses the power to annul or impair the constitutional right of any citizen of the United States to take his slave property into the common Territories; but it is the duty of the Federal Government there to afford for that, as for other species of property, the needful protection; and if experience should at any time prove that the judiciary does not possess power to insure adequate protection it will then become the duty of Congress to supply such deficiency.

TEST RESOLUTIONS OF JEFFERSON DAVIS

SENATE, FEBRUARY 2-MAY 24, 1860

Upon this resolution Senator Davis remarked:

Mr. President, I have presented these resolutions, not for the purpose of discussing them, but with a view to get a vote upon

them severally, hoping thus, by an expression of the deliberate opinion of the Senate, that we may reach some conclusion as to what is the present condition of opinion in relation to the principles there expressed. The expression even of the resolutions is, to a great extent, not new. The first and second are substantially those on which the Senate voted in 1837-'38, affirming them then by a very large majority. I trust opinion to-day may be as sound as it was then. It was my purpose to rest the propositions contained in these resolutions upon the highest authority of the land—judicial as well as other; and if it be possible to obtain a vote on them without debate it will be most agreeable to me. To have them affirmed by the Senate without contradiction would be an era in the recent history of our country which would be hailed with joy by every one who sincerely loves it.

Resolutions stating that it was "the privilege of citizens of all the State to go into the Territories with every kind and description of property recognized by the Constitution" had already [on January 18] been submitted to the Senate by Albert G. Brown [Miss.]. On February 3 Graham N. Fitch [Ind.], an anti-Douglas Democrat, spoke upon the Brown resolutions.

The resolutions of the Senator from Mississippi [Mr. Brown] affirm, first, that the citizens of the Southern States have a constitutional right to go into the Territories with their property, recognized as such by the Constitution of the United States, and there possess and enjoy that property. This is the assertion of a right, in my estimation, undoubted—one I hardly deem even respectably debatable—yet it is a right the entire Republican party deny; a right but half admitted by certain Democrats; and one which, while thus but half admitting, such Democrats would create the means of practically denying. It is a right, we are told—and in such terms and manner that we cannot question the sincerity of the declaration—by every Southern Senator and Representative, that their section will never yield.

We are told by some of them, and I think by the Senator from Georgia among the number, that the recognition by their section of the Senator from Illinois with his present territorial views, as their candidate for the presidency, would be tantamount to a surrender of that right; hence their opposition to the nomination of that Senator. Well, sir, Northern Democrats thinking with me are likewise opposed to his nomination, because

we deem his territorial views sectionally unjust and unconstitutional. If citizens of the South are disposed to maintain their constitutional rights, there are those in the North who will aid them to the extent of their ability, and for the reason that, under the Constitution, we would expect similar aid from the South if our rights were threatened, and such aid necessary. Such was the mutual agreement of our fathers; such the bond. But if they voluntarily surrender their rights we of the North will accept the surrender as unconditional—never to be recalled; and use the power it bestows upon us as a gift never to be reclaimed. An army may be defeated in battle; but if, in its retreat, it preserve its discipline and retain its munitions of war, it commands the respect even of its enemies, the sympathy and aid of its friends, because of its readiness and ability to renew the struggle, and perhaps successfully to prosecute it; but if that army yield without battle; and especially if it invite and receive as its commander one who, though under the garb of friendship, has previously proclaimed his intention to deprive its members of a portion of their rights, and their liberties, it becomes disorganized, surrenders its means of defence without any equivalent, without any consideration, has not the respect of its enemies, and forfeits the sympathy and aid of its friends.

If the South nominate the Senator alluded to [Mr. Douglas] with his present views, the entire North will deem the act an expression of willingness upon their part that his views shall become the future settled policy of the Government; the united North will act upon that policy, carry it out to the full, and no aid must be expected by the South from any portion of the North in any effort they may thereafter make to prevent the progress of that policy to the end. When by such act it establishes his policy the South, and the Senator from Illinois [Mr. Douglas] will have done more to accomplish the favorite and avowed scheme of the Republican party than any effort of that party could have done—the scheme of surrounding the Southern States with free territory and starving out their institution.

On February 20 Senator Daniel Clark [N. H.] characterized the purpose of the resolutions as the manufacture of political capital for the coming presidential campaign.

Mr. President, I have observed one thing in the history of this slavery agitation: that whenever the Democrats, by their delegates, go into a convention on the eve of a presidential elec-

tion, they say they will have no agitation; but when that occasion is past, and they come into Congress, they are the very people to agitate the question. I do not know now but that, when the delegates of the Democratic party go down to Charleston this year, they will again resolve that there shall be no agitation. Most probably they will; and when they return here these questions will be renewed and carried forward.

The speaker here reviewed the progressive steps of the pro-slavery party in regard to the extension of slavery.

You see, Mr. President, how bold this institution has grown—what its practice is now compared to what it was formerly. Now it seeks directly to appropriate the whole territory to itself. It does not seek to divide the territory now as formerly, but it grasps the whole; up the rivers, over the mountains, and down into the valleys; in the sunny South, and in the ice-ribbed North; upon the arid and barren center, or on the fertile slopes; wherever a white man may go slavery seeks to accompany him. Briareus like, with its hundred arms, it grasps the entire territory of the United States Government.

But, Mr. President, not only is the doctrine of this resolution bold, but it is alarming—alarming because it makes another step in the progress of the slave power. At first freedom claimed the whole. Then slavery claimed the half. Now, instead of, as in 1820, taking a portion of the territory, and having it admitted as a slave State, and yielding the rest of the territory to freedom, slavery claims the whole territory. That is the doctrine of this resolution; that there is a constitutional right, on the part of the slave master, to take his slave and go with him anywhere into the territory of the United States, and hold him there as a slave; and, if the laws are not sufficient now for the purpose of holding him there, this Government is bound to provide laws sufficient to hold him there. I say the doctrine is alarming to the free States because the next step will be to provide that the slave goes not only into the Territories of the United States, but that he may be held in the States after they come in as States.

The day is not far distant, in my judgment, when slavery will claim extension into the old States over which the Constitution is the supreme law, and the time may come when the Senator from Georgia [Robert Toombs], as he boasted some two or three or four years ago, may call the roll of his slaves around the monument on Bunker Hill,

SENATOR TOOMBS.—The Senator from New Hampshire [Mr. Clark] made some allusion to me. I want to know where he got that statement? A contradiction has been in the newspapers three times. It seems to be your policy to make such statements, however.

SENATOR CLARK.—I beg the Senator's pardon. I have never seen the contradiction.

SENATOR TOOMBS.—The Senator ought to have some authority for such a statement as he has made.

SENATOR CLARK.—I have seen it several times, and it would not be surprising if I did not now recollect the precise place in which I had seen it.

SENATOR TOOMBS.—You may have seen it in the *New York Tribune*—a journal which is the general receptacle of all falsehoods.

SENATOR CLARK.—I am glad to hear that the Senator from Georgia did not utter that sentiment. I am glad to be corrected.

But, sir, bold, alarming, and contrary to the policy and history of the legislation of this Government as the doctrine of this resolution is, if it is to be seriously contended for and adopted by the Democratic party, as it will be if the South demand it, I am glad it is here. In the language of one of the Senators from Mississippi [Mr. Brown], "We do not want to cheat or to be cheated." Let us understand each other. The Democracy, at least the Southern wing of it, and a portion of the Northern, declare that the Constitution carries slavery into all of the Territories of the United States, or, what is equivalent, that, under the Constitution, the slave master has a right to take his slave into a Territory of the United States; and if the laws there are not sufficient to protect him in the enjoyment of that so-called right of property, the people of the Territory should pass laws to secure it; and, the people of the Territory failing to do it, Congress should do it unless the courts should have sufficient power; thus making Congress the guardian and protector of slavery in all the Territories of the United States; in fact, establishing it there.

From this construction of the Constitution the Republicans dissent. To prevent the extension of slavery into the Territories of the Federal Government is a cardinal object with the Republican party. The repeal of the Missouri compromise, which had stood as a sentinel for more than thirty years to guard the territory north of 36° 30' north latitude from the aggressions of the slave power, revealed its design to spread slavery into

all the Territories of the Union, and roused the determination in millions of hearts to prevent it.

From that determination, like Minerva from the head of Jove, fully matured, and armed with unflinching purpose and iron will, the Republican party sprang into existence to prevent the accomplishment of that design. Stigmatizing it as a relic of barbarism, it avows its purpose to confine it in its present limits; and if then it shall become unprofitable, "be smothered," to use the language of the Senator from Illinois [Mr. Douglas], and "die out," it will only the sooner bring the accomplishment of the earnest desires and expectation of the founders of this Government. They will rejoice at it.

To prevent the extension of slavery in the Territories I have said was a cardinal object of the Republican party; but when I say this I deny that it attempts, or seeks to attempt, by any action of the general Government, to interfere with it in the States where it exists. It is a matter beyond the control of such action. But when I say this let it be understood also that vast numbers of those who comprise the Republican party, and of those who sympathize with it, deny the right of any man or body of men to hold or establish property in man; and they will discuss the institution of slavery, and hold it up as a moral, social, and political evil, as ruinous to the prosperity and population of the States where it exists, as a clog to their progress, as an enemy to the Union, and a reproach to free governments; and, therefore, an evil to be excluded from the Territories. They will discuss it because it is sought to be extended. They do not forget nor underrate the force of public opinion; they know that legislatures and States acknowledge its power, and are swayed and controlled by it; that neither Virginia nor Mississippi will long have slaves when public opinion demands their emancipation. They will, therefore, labor to guide and strengthen that public opinion by the school, the pulpit, and the press; by writing and by oral speech; by the public journal and the periodical; by exhibition of the benefits of free labor, and by every proper means, until the master himself, seeing the vast benefits of free labor, and the rapid progress of free States, feeling the force of the fundamental axiom of Jefferson, "that all men are entitled to life, liberty, and the pursuit of happiness," and knowing the manifold injustice of a system which is evil, and "that continually" shall remove the "hooks of steel" which have "grappled" slavery to the social and political system.

In the language of Mr. Webster, in 1847, and repeated in his 7th of March speech of 1850:

But, Mr. President, this is not so. The Senator is not right. Slavery is not the key-stone of this arch; it would not fall if it were removed. It may better be compared to an unsteady, rolling cobble-stone admitted into the structure, which causes it sometimes to tremble; but which, skillfully removed, or secured in its place, the whole may stand securely.

Let not, then, the image be broken. Let it rise into its place. Let it surmount the dome of this Capitol. Let it bear the sword and shield. Let the free man look to it with gratitude and mingled shame and admiration; the bondman with hope and faith; and let it symbolize that higher state of civilization and equal self-government, when all nations and all races, each in its proper place, but all free, shall form one mighty, well-adjusted temple, whose crowning glory shall be "equal and exact justice to all men."

On May 7, 1860, a week following the Charleston [S. C.] Democratic convention (for an account of which see the following chapter), Senator Jefferson Davis [Miss.] said:

"It is well known to those who have been associated with me in the two Houses of Congress that, from the commencement of the question, I have been the determined opponent of what is called squatter sovereignty. I never gave it countenance, and I am now least of all disposed to give it quarter. In 1848 it made its appearance for good purposes. It was ushered in by a great and good man [Lewis Cass]. He brought it forward because of that distrust which he had in the capacity of the Government to bear the rude shock to which it was exposed. His conviction, no doubt, to some extent sharpened and directed his patriotism, and his apprehension led him to a conclusion to which, I doubt not, to-day he adheres as tenaciously as ever; but from which it was my fortune, good or ill, to dissent when his letter [the Nicholson letter] was read to me in manuscript; I being, together with some other persons, asked whether or not it should be sent. At the first blush I believed it to be a fallacy—a fallacy fraught with mischief; that it escaped an issue which was upon us which it was our duty to meet; that it escaped it by a side path, which led to danger. I thought it a fallacy which would surely be exploded. I doubted then, and still more for some time afterward, when held to a dread responsibility for the position which I occupied—I doubted whether I should live to see that fallacy exploded. It has been. Let Kansas speak

"We are to use the first, and last, and every opportunity which offers, to oppose the extension of the slave power."

Make slavery extension and protection in the Territories the issue and we will meet you upon it. Take a slave code for your platform, or make it a plank in it, and you will convert it into a plate of red-hot steel, upon which no Northern man can stand. Reveal and publish such to be your purpose and the history of the end of Northern Democracy shall be as short and graphic as that of the Chaldean monarch—

"In that night was Belshazzar, the king of the Chaldeans, slain."

The Senator from Virginia [Mr. Hunter] said in his speech a few days since:

"If I am right, Mr. President, we see here a mass of vast and associated interests which mutually contribute to the support of each other, constituting, if I may use the simile, a mighty arch which, by the concentrated strength and by the mutual support of its parts, is able to sustain such a social superstructure as perhaps is unparalleled in the history of man—and is it not obvious, too, that the very keystone of this arch consists in the black marble cap of African slavery. Knock that out, and the mighty fabric, with all that it upholds, topples and tumbles to its fall."

Mr. President, if this be so, we are committing a great mistake. There now stands in the old Hall of Representatives a female figure of *white* marble. Her eye is elevated, and her attitude unconstrained and easy. In one hand she holds a shield, and in the other a sword. Upon the pedestal is inscribed the irrepressible-conflict word "Freedom"; and it is designed for the top of the dome of the Capitol. But if the Senator is right it should not be placed there. It should be broken; and her image should be made of black marble or ebony; upon its hands should be manacles; upon the front the brand of a slave; and it should be elevated upon the highest point on the nation's legislative halls; yea, over the very sittings of the Supreme Court, as an index to all who behold, that the "cap-stone," the "crowning glory" of the mighty fabric of human rights and self-government is this poor miserable victim of "wrong, cruelty, and oppression"—the African slave!

Has it come to this, then, that our fathers counseled and toiled and fought for the inestimable, inalienable rights of man, and that the highest, most valuable of them all—that without which the others would not be worth preserving, and must perish—is the right to hold a negro in slavery?

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—the first great field on which the trial was made. What was the consequence? The Federal Government withdrawing control, leaving the contending sections, excited to the highest point upon this question, each to send forth its army. Kansas became the battlefield, and Kansas the cry which well-nigh led to civil war. This was the first fruit. More deadly than the fatal upris, its effect was not limited to the mere spot of ground on which the dew fell from its leaves, but it spread throughout the United States; it kindled all which had been collected for years of inflammable material. It was owing to the strength of our Government and the good sense of the quiet masses of the people that it did not wrap our country in one widespread conflagration.

"What right had Congress then, or what right has it now, to abdicate any power conferred upon it as trustee of the States?"

"In 1850, following the promulgation of this notion of squatter sovereignty, we had the idea of non-intervention introduced into the Senate of the United States, and it is strange to me how that idea has expanded. It seems to have been more malleable than gold, to have been hammered out to an extent that covers boundless regions undiscovered by those who proclaimed the doctrine. Non-intervention then meant, as the debates show, that Congress should neither prohibit nor establish slavery in the Territories. That I hold to now. Will any one suppose that Congress then meant by non-intervention that Congress should legislate in no regard in respect to property in slaves? Why, sir, the very acts which they passed at the time refute it. There is the Fugitive Slave Law, and that abomination of law which assumed to confiscate the property of a citizen who should attempt to bring it into this District with intent to remove it at some other time to some other place, and there to sell it. Congress acted then upon the subject, acted beyond the limits of its authority as I believed, confidently believed; and if ever that act comes before the Supreme Court I feel satisfied that they will declare it null and void.

"By what species of legerdemain this doctrine of non-intervention has come to extend to a paralysis of the Government on the whole subject, to exclude the Congress from any kind of legislation whatever, I am at a loss to conceive. Certain it is, it was not the theory of that period, and it was not contended for in all the controversies we had then. I had no faith in it then; I considered it a sham; I considered that the duty of Congress ought to be performed; that the issue was before us, and ought to be met, the sooner the better; that truth would prevail if pre-

sented to the people; borne down to-day, it would rise up to-morrow; and I stood then on the same general plea which I am making now. The Senator from Illinois [Mr. Douglas] and myself differed at that time, as we do now."

On May 15 and 16 Senator Douglas replied as follows to Senator Davis:

The facts stated in the speech of the Senator from Mississippi conclusively show that the doctrine of squatter sovereignty, or popular sovereignty, or non-intervention, as the Senator has indifferently styled it in different parts of his speech, did not originate with me in its application to the Territories of the United States; that it was distinctly proclaimed by General Cass in what is known as his Nicholson letter; that the issue was then distinctly presented to the country in the contest of 1848; that General Cass became the nominee of the Democratic party with a full knowledge of his opinions upon the question of non-intervention; that he was supported by the party on that issue; that the same doctrine of non-intervention was incorporated into the compromise measures of 1850, in opposition to the views and efforts of the Senator from Mississippi, and in harmony with the views and efforts of myself; that it was reaffirmed by the Democratic party in the Baltimore convention of 1852; that General Pierce was elected President of the United States upon this same doctrine of non-intervention; that it was again affirmed by the Congress of the United States in the Kansas-Nebraska bill of 1854; and that it had its first trial, and yielded its first fruits, upon the plains of Kansas in 1855 and 1856.

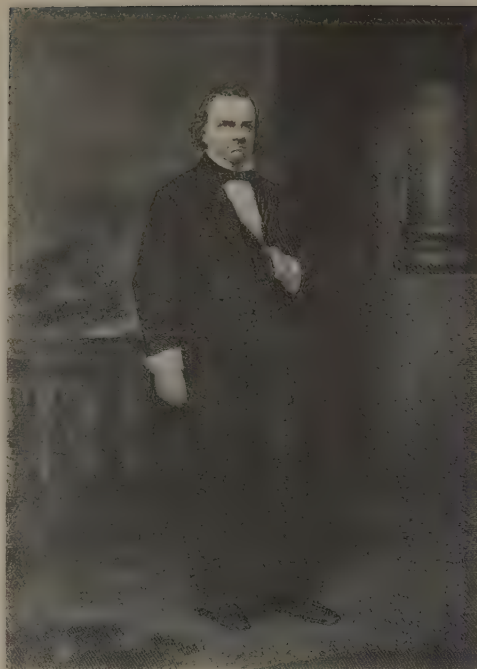
These facts conclusively disprove and refute the charges so often made in the Senate Chamber within the last year, so erroneously and so unjustly made against me, that I have changed my opinions in regard to this question since 1856. The Senator from Mississippi has done me a service: he has searched the records with a view to my condemnation, and the result of his researches is to produce the most conclusive and incontestable evidence that this charge of having changed my opinions on this question, which was made the pretext for my removal from the Committee on Territories, was not true. He tells you frankly, what the world knew before, that he had always opposed this doctrine of non-intervention; that he and I always differed upon that point. He always regarded it as a fallacy; I as a sound principle. He claims that, after it has yielded its

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blighting effects upon the plains of Kansas, the Supreme Court has come to the rescue, and that he now is triumphantly sustained in his opposition to this doctrine in 1848, 1850, and 1851. Sir, whether we have been sustained and our consistency vindicated is not so material as to find out which is right in the point at issue, then and now, between the Senator from Mississippi and myself.

The country has been informed that I was removed from the post of chairman of the Committee on Territories, in 1858, because I uttered at Freeport, Illinois, the identical sentiments contained in the speeches and letters of acceptance of Mr. Buchanan and Mr. Breckinridge in 1856. I do not complain of my removal from the committee. I acknowledge that, if it be true that my opinions were so heretical that I did not fairly and honestly represent the sentiments of the Senate on these great questions, it was right to displace me and put a man there who did. But when you displace me for that reason, do not charge that I have changed, when the fact is that you have changed your own opinions.

Now, sir, there is a difference of opinion, it seems, on this question, between me and a majority of the Democratic Senators. It was painful to me to find that this difference of opinion had grown up, and that they had determined to make this new test by which my orthodoxy was to be questioned, and I was to be branded as a heretic. While I regretted that determination on the part of some political friends here, I cannot recognize, and do not now recognize, the right of a caucus of the Senate, or of the House, to prescribe new tests for the Democratic party. Senators are not chosen for the purpose of making party platforms. Under our political system there has grown up an organization known as a national convention, composed of delegates elected fresh from the people, to assemble once in four years to establish a platform for the party and select its nominees. The Cincinnati platform was the only authoritative exposition of Democratic faith until the Charleston convention met. I have stood firmly, faithfully, by the Cincinnati platform, and have looked confidently to the Charleston convention to find it reaffirmed. You gentlemen who differ with me agreed to appeal to Charleston as the grand council that should decide all differences of political opinion between you and me. I agreed, also, to look to the Charleston convention as the representatives of the party assembled from every State in the Union; and after great deliberation, three days' debate in committee, and a very elaborate and able debate in full convention, the party deter-



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mined, by an overwhelming majority, in favor of the re adoption of the Cincinnati platform.

Therefore I am no longer a heretic. I am no longer an outlaw from the Democratic party. I am no longer a rebel against the Democratic organization. The Charleston convention repudiated this new test, contained in the Senate caucus resolutions, by a majority of twenty-seven, and affirmed the Cincinnati platform in lieu of it. Then, so far as the platform is concerned, I am sustained by the party—the only authority on earth which, according to Democratic usages, can determine the Democratic creed. The question now is whether my friend from Mississippi will again acquiesce in the decisions of his party upon the platform which they have adopted, or is he going to retire from the party, bolt its nominations, break it up, because the party has concluded not to change from its position of 1856. Are my friends around me here going to desert the party because the party has not changed as suddenly as they have?

The party decided at Charleston also that I was the choice of the Democratic party of America for the Presidency of the United States, giving me a majority of fifty votes over all the other candidates combined; and yet my Democracy is questioned. [Laughter.] So far as I am individually concerned I want no further or higher indorsement. My friends who know me best know that I had no personal desire or wish for the nomination; know that I prefer a seat in the Senate for six years to being President, if I could have the nomination, and be elected by acclamation; and know that my name never would have been presented at Charleston except for the attempt to proscribe me as a heretic, too unsound to be the chairman of a committee in this body, where I have held a seat for so many years without a suspicion resting on my political fidelity.

I was forced to allow my name to go there in self-defence; and I will now say that had any gentleman, friend or foe, received a majority of that convention over me, the lightning would have carried a message withdrawing my name from the convention. I have not lust enough for office to desire to be the nominee against the known wishes and first choice of a majority of my party. In 1852, the instant Franklin Pierce had a majority vote, the telegraph carried my message congratulating him as the choice of the party; and it was read in the convention before the vote was announced. In 1856, the instant Mr. Buchanan received a majority vote, the lightning carried my message that James Buchanan, having received a majority of the votes of the party, in my opinion, was entitled to the nomination,

and that I hoped my friends would give him the requisite two-thirds, and then make the vote unanimous. Sir, I would scorn to be the standard-bearer of my party when I was not the choice of the party. All the honors that a national convention can confer are embraced in the declaration of their first choice for their standard-bearer, repeated on fifty-seven ballots. I ask nothing more. The party will go on and do what its own interest and its own integrity may require.

But, sir, I do rejoice that this good old Democratic party, the only organization now left sufficiently national and conservative in its principles and great in its numbers to preserve this Union, has determined to adhere to the great principle of non-intervention by the Federal Government with the domestic affairs of distant Territories and provinces. It is a pleasing duty to me to defend this glorious old party against those who would destroy it because the party will not change its platform to suit their purposes. The leadership at Charleston, in this attempt to divide and destroy the Democratic party, was intrusted to appropriate hands. No man possessed the ability, or the courage, or the sincerity in his object, for such a mission, in a higher degree than the gifted Yancey. He has a right to feel proud of his achievements at Charleston. In 1848, at Baltimore, he proclaimed the same doctrine, and failed to get a State to stand by him in seceding; there his doctrines were repudiated. Boldly and fearlessly he put his protest on record against the doctrine of non-intervention, and withheld his assent to the support of the nominee, because he conscientiously believed that the South ought to insist on the doctrine of intervention by Congress in support of slavery in the Territories, when the people did not want it. Overruled by five or ten to one in Baltimore in 1848, overruled unanimously at Baltimore in 1852, in 1856 he concluded that perhaps he would make a virtue of necessity, and submit to non-intervention; and he got up instructions in favor of non-intervention, and succeeded in putting it in the platform in 1856. But very soon he came to the conclusion that this great Democratic party was not competent to preserve and maintain the rights of the South under the Constitution. He came to the conclusion that it was time for them to institute some other organization for the maintenance of Southern rights. That he was conscientious and sincere in his views I do not doubt; but that they lead directly, inevitably, to a dissolution of the Union, and the formation of a Southern confederacy, if carried out, I think is beyond all question. Doubtless many Senators have seen the letter of Mr. Yancey to Mr. Slaughter, of the date of June 15,

terest in slavery that it is worth while to break up the Democratic party on account of slavery. [Laughter.] But Mr. Yancey has not much trust in Delaware and Maryland. He cannot trust Maryland because, he says, she keeps Abolitionists in Congress. Then, he says, he cannot trust Missouri because she, for a long time, sustained a Free-Soiler in the Senate, and afterward in the House of Representatives—alluding to Colonel Benton. Then, he says, he cannot trust Tennessee because she kept an Abolitionist here in the Senate so long, and reelected him; and, besides, he says Tennessee never had his confidence; a Methodist conference refused to expunge certain anti-slavery opinions which John Wesley had inserted into the ritual. He cannot trust Kentucky because Kentucky, for so many years, sustained such Free-Soilers as Clay and Crittenden! [Laughter.] He then says:

"It is equally true that I do not expect Virginia to take any initiative steps toward a dissolution of the Union when that exigency shall be forced upon the South. Her position as a border State, and a well-considered Southern policy (a policy which has been digested and understood, and approved by the ablest men in Virginia, as you yourself must be aware), would seem to demand that, when such movement takes place by any considerable number of Southern States, Virginia and the other border States should remain in the Union, where, by their position and their counsels, they could prove more effective friends than by moving out of the Union, and thus giving to the Southern confederacy a long Abolition hostile border to watch. In the event of the movement being successful, in time Virginia, and the other border States that desired it, could join the Southern confederacy and be protected by the power of its arms and its diplomacy."

So it seems that, in 1858, a well-digested plan had been matured and approved by many of the ablest men of the South, and even in Virginia; and that by that plan it was not expected that Virginia, and these other unsound border States, were to go out of the Union when the South was forced to dissolve—using the word "forced." A very enviable position Mr. Yancey puts the Old Dominion in! He wishes to retire from you, and asks you to remain with us, in order that you may annoy and distract and betray us, for the benefit of those that go out; and he holds out the assurance that, in the course of time, perhaps Virginia and Maryland and Kentucky and Tennessee and Missouri may become sound enough to be admitted into the Southern confederacy. He is going to keep you on probation a while, guarding

1858, upon the subject of "precipitating the cotton States into revolution." In order that the Senate and the country may see that I do Mr. Yancey full justice I shall have the whole letter read.

MONTGOMERY, June 15, 1858.

DEAR SIR: Your kind letter of the 15th is received.

I hardly agree with you that a general movement can be made that will clear out the Augean stable. If the Democracy were overthrown, it would result in giving place to a greater and hungrier swarm of flies.

The remedy of the South is not in such a process. It is in a diligent organization of her true men for the prompt resistance to the next aggression. It must come in the nature of things. No national party can save us; no sectional party can ever do it. But if we could do as our fathers did—organize "committees of safety" all over the cotton States (and it is only in them that we can hope for any effective movement)—we shall fire the Southern heart, instruct the Southern mind, give courage to each other, and, at the proper moment, by one organized, concerted action, we can precipitate the cotton States into a revolution.

The idea has been shadowed forth in the South by Mr. Ruffin; has been taken up and recommended by the *Advertiser*, under the name of "League of United Southerners," who, keeping up their old party relations on all other questions, will hold the Southern issue paramount, and will influence parties, legislatures, and statesmen. I have no time to enlarge, but to suggest merely.

In haste, yours, etc.,

W. L. YANCEY.

SENATOR DOUGLAS.—That letter, it is due to Mr. Yancey to state, was intended as a private letter to his friend, Mr. Slaughter, and was published without his authority. Having been republished and severely commented upon by the editor of the *Richmond South*, Mr. Yancey addressed a letter to Mr. Roger A. Pryor, in which he declared that it was a private letter, written in the freedom and carelessness of private confidence, and was subject to hostile criticism. Therefore, he proceeded to explain more fully what his views were upon the question. I have endeavored to obtain an entire and perfect copy of this letter to Mr. Pryor, without success. I find, however, a long extract, embodying probably the whole of its material parts, in the *National Intelligencer* of September 4, 1858, which, I have no doubt, gives a fair representation of Mr. Yancey's opinions. In the forepart of the letter Mr. Yancey says: "to be candid, I place but little trust in such States as Delaware, Maryland, Tennessee, Kentucky, and Missouri." He then proceeds to give his reason why he cannot trust them. Delaware he regards as nominally a slave State, but substantially anti-slavery. On that he differs in opinion from the distinguished Senator from Delaware [Mr. Bayard], who thinks that Delaware has such an in-

a long Abolition frontier, for the benefit of the cotton States; and after a while, perhaps, if you do good service, and so act as to be entitled to his respect and confidence, then he will admit you into this Southern confederacy of the cotton States!

Mr. Yancey tells us of the "well-digested plan." It was not to be executed at once; and in the meantime all the men in the plan must preserve their relations in the Democratic party, so as to influence public men and public measures, and thus be ready to have some influence by precipitating this result on the party, and breaking it up. Part of the plan was to pretend still to be members, keep in the party, go into fellowship with us, seem anxious to preserve the organization, and at the proper time plunge the cotton States into revolution. What was the auspicious moment, that proper time, to which he alluded? Was it at the Charleston convention? Was that the proper time? The history of the event shows that Mr. Yancey there acted up to his program announced in his letters to Slaughter and Pryor. He preserved his relations with his party with a view of exercising influence on public men and measures, over Northern as well as Southern men, and finally proposed an intervention platform, reversing the creed of the party, and "at the proper time" he did precipitate the cotton States into revolution, and led them out of the convention. The program was carried out to the letter! and he did leave in the convention those unsound States that he could not trust, such as Virginia and Tennessee and Kentucky and Missouri and North Carolina and Delaware and Maryland. Part of Delaware, I believe, followed him; but they came to the conclusion that Delaware was not big enough to divide. [Laughter.] Her champion returned back into the Northern confederacy. Was it to keep watch, and guard an Abolition frontier for the benefit of the cotton States? Is Delaware to be received into Mr. Yancey's Southern confederacy after a while? Will he consent to allow Virginia to come? Will North Carolina be accepted by him? Will Tennessee be permitted to come in now that she has got rid of her Free-Soil Senator? Will he allow Kentucky to join when such Abolitionists as Clay and Crittenden have ceased to represent her? I beg the pardon of the Senator from Kentucky for repeating his name in this connection. The gallant Senator from Kentucky an Abolitionist! A Free-Soiler! A man whose fame is as wide as civilization, whose patriotism, whose loyalty to the Constitution was never questioned by men of any party! [Applause in the galleries.] Oh, with what devotion could I thank God if every man in America was just such an Abolitionist as

Henry Clay and John J. Crittenden! [Renewed applause in the galleries.]

THE PRESIDING OFFICER (Mr. Foot).—Order!

SENATOR DOUGLAS.—I wish to God that the whole American people were just such Abolitionists as Clay and Crittenden. [Applause in the galleries.] I do not say that Mr. Yancey and his associates at Charleston mean disunion. I have no authority for saying any more than appears in the publication of his matured plan. Sir, it was said with truth that the order of battle issued at Cerro Gordo by General Scott a day before the battle was a complete history of the triumph after the battle was over, so perfect were his arrangements, so exact was the compliance with his orders. The program of Mr. Yancey, published two years ago, is a truthful history of the secession movement at Charleston. I have not the slightest idea that all those who came under his influence in maturing his measures concurred in the ends to which these measures inevitably led; but what were Mr. Yancey's measures? He proposed to insist upon a platform identical in every feature with the caucus resolutions which we are now asked to adopt. The Yancey platform at Charleston, known as the majority report from the committee on resolutions, in substance and spirit and legal effect was the same as the Senate caucus resolutions; the same as the resolutions now under discussion, and upon which the Senate is called upon to vote.

I do not suppose that any gentleman advocating this platform in the Senate means or desires disunion. I acquit each and every man of such a purpose; but I believe, in my conscience, that such a platform of principles, insisted upon, will lead directly and inevitably to a dissolution of the Union. This platform demands congressional intervention for slavery in the Territories in certain events. What are these events? In the event that the people of a Territory do not want slavery, and will not provide by law for its introduction and protection, and that fact shall be ascertained judicially, then Congress is to pledge itself to pass laws to force the Territories to have it. Is this the non-intervention to which the Democratic party pledged itself at Baltimore and Cincinnati? So long as the people of a Territory want slavery, and say so in their legislation, the advocates of the caucus platform are willing to let them have it, and to act upon the principle that Congress shall not interfere. They are for non-interference so long as the people want slavery, so long as they will provide by law for its introduction and protection; but the moment the people say they do not want it, and will not have it, then Congress must intervene and force the institution

bill of indictment against me that I am hostile to Southern rights, because I gave those votes.

Now, what has been the result? My views were incorporated into the compromise measures of 1850, and his were rejected. Has the South been excluded from all the territory acquired from Mexico? What says the bill from the House of Representatives now on your table, repealing the slave code in New Mexico established by the people themselves? It is part of the history of the country that under this doctrine of non-intervention, this doctrine that you delight to call squatter sovereignty, the people of New Mexico have introduced and protected slavery in the whole of that Territory. Under this doctrine they have converted a tract of free territory into slave territory, more than five times the size of the State of New York. You asked only up to 36° 30', and non-intervention has given you slave territory up to 38°, a degree and a half more than you asked; and yet you say that that is a sacrifice of Southern rights!

These are the fruits of this principle, which the Senator from Mississippi regards as hostile to the rights of the South. Where did you ever get any other fruits that were more palatable to your taste, or more refreshing to your strength? What other inch of free territory has been converted into slave territory on the American continent, since the Revolution, except in New Mexico and Arizona, under the principle of non-intervention affirmed at Charleston? If it be true that this principle of non-intervention has conferred upon you all that immense Territory; has protected slavery in that comparatively northern and cold region where you did not expect it to go, cannot you trust the same principle further south when you come to acquire additional territory from Mexico? Are you not satisfied with these practical results? Do you desire to appeal from the people of the Territories to the Congress of the United States to settle this question in the Territories? When you distrust the people and appeal to Congress, with both Houses largely against you on this question, what sort of protection will you get? Whenever you ask a slave code from Congress to protect your institutions in a Territory where the people do not want it you will get that sort of protection which the wolf gives to the lamb; you will get that sort of friendly hug that the grizzly bear gives to the infant. Appealing to an anti-slavery Congress to pass laws of protection, with a view of forcing slavery on an unwilling and hostile people! Sir, of all the fatal schemes that ever could be devised by the South or by the enemies of the South, that which recognizes the right of Congress to touch the

on an unwilling people. On the other hand, the Republican party is also for non-intervention in certain contingencies. The Republicans are for non-intervention just so long as the people of the Territories do not want slavery, and say so by their laws. So long as the people of a Territory prohibit slavery the Abolitionists are for non-intervention, and will not interfere at all; but whenever the people of the Territories say by their legislation that they do want it, and provide by law for its introduction and protection, then the Republicans are for intervening and for depriving them of it. Each of you is for intervention for your own section, and against it when non-intervention operates for your section. There is no difference in principle between intervention North and intervention South. Each asserts the power and duty of the Federal Government to force institutions upon an unwilling people. Each denies the right of self-government to the people of the Territory over their internal and domestic concerns. Each appeals to the passions, prejudices, and ambition of his own section, against the peace and harmony of the whole country.

Sir, let this doctrine of intervention North and intervention South become the rallying point of two great parties, and you will find that you have two sectional parties, divided by that line that separates the free from the slaveholding States. Whenever this shall become the doctrine of the two parties you will find a Southern intervention party for slavery, and a Northern intervention party against slavery; and then will come the "irrepressible conflict" of which we have heard so much.

We are told that the necessary result of the doctrine of non-intervention, which gentlemen, by way of throwing ridicule upon it, call squatter sovereignty, is to deprive the South of all participation in what they call the common Territories of the United States.

That was the ground on which the Senator from Mississippi [Mr. Davis] predicated his opposition to the compromise measures of 1850. He regarded a refusal to repeal the Mexican law as equivalent to the Wilmot proviso; a refusal to recognize by an act of Congress the right to carry a slave there as equivalent to the Wilmot proviso; a refusal to deny to the territorial legislature the right to exclude slavery as equivalent to an exclusion. He believed at that time that this doctrine did amount to a denial of Southern rights; and he told the people of Mississippi so; but they doubted it. Now, let us see how far his theory and suppositions have been verified. I infer that he told the people of Mississippi so, for as he makes it a charge in his

institutions of slavery, either in States or Territories, beyond the single case provided in the Constitution for the rendition of fugitive slaves, is the most fatal.

Mr. President, this morning, before I started for the Senate Chamber, I received a newspaper containing a letter written by one of Georgia's gifted sons upon this question of non-intervention. I allude to one of the brightest intellects that this nation has ever produced; one of the most useful public men; one whose retirement from among us created universal regret throughout the whole country. You will recognize at once that I mean Alexander H. Stephens, of Georgia. Since the adjournment of the Charleston convention Mr. Stephens has responded to a letter from his friends, giving his counsel—the counsel of a patriot—to the party and the country in this emergency. In the letter he reviews the doctrine of non-intervention, and shows that he was originally opposed to it, but submitted to it because the South demanded it; that it had a Southern origin; is a Southern doctrine; was dictated to the North by the South; and he accepted it because the South required it. He shows that the same doctrine was incorporated in the Kansas-Nebraska bill, that it formed a compact of honor between Northern and Southern men by which we were all bound to stand. He gives a history of the Kansas-Nebraska bill identical with the one I gave to you yesterday, without knowing that he had written such a letter. Mr. Stephens has a right to speak as to the meaning of the Kansas-Nebraska bill. No man in the House of Representatives exerted more power and influence in securing its passage than Alexander H. Stephens. I ask that the whole of his letter, long as it is, be read, for it covers the entire ground, and speaks in the voice of patriotism, counseling the only course that can preserve the Democratic party and perpetuate the union of these States.

The letter of Mr. Stephens was then read. It closed as follows:

There is a tendency everywhere, not only at the North, but at the South, to strife, dissension, disorder, and anarchy. It is against this tendency that the sober-minded and reflecting men everywhere should now be called upon to guard.

My opinion, then, is that delegates ought to be sent to the adjourned convention at Baltimore. The demand made at Charleston by the seceders ought not to be insisted upon. Harmony being restored on this point, a nomination can doubtless be made of some man whom the party everywhere can support, with the same zeal and the same ardor with which they entered and waged the contest in 1856, when the same principles were involved.

If, in this, there be a failure, let the responsibility not rest upon us. Let our hands be clear of all blame. Let there be no cause for casting censure at our door. If, in the end, the great national Democratic party—the strong ligament which has so long bound and held the Union together, shaped its policy and controlled its destinies, and to which we have so often looked with a hope that seldom failed, as the only party North on which to rely in the most trying hours when constitutional rights were in peril—if it goes down, let it not be said to us, in the midst of the disasters that may ensue, “you did it!” In any and every event, let not the reproach of Punic faith rest upon our name. If everything else has to go down, let our untarnished honor, at least, survive the wreck.



STEPHEN FINDLING "HIS MOTHER"

From the collection of the New York Historical Society

Mr. Stephens has said, what I think he was bound to say as a patriot and a Democrat, that the Cincinnati platform is all that the South ought to ask or has a right to ask, or that her interests require in this emergency. On that platform the party can remain a unit, and present an invincible and irresistible front to the Republican or Abolition phalanx at the North. So certain as you abandon non-intervention and substitute intervention, just so certain you yield a power into their hands that will sweep the Democratic party from the face of the globe.

CHAPTER VIII

SLAVERY IN THE TERRITORIES

[THE ISSUE IN THE PRESIDENTIAL CAMPAIGN OF 1860]

The Charleston Democratic Convention—Debate on Platform Between William L. Yancey [Ala.], *et al.*, and Senator George E. Pugh [O.]—Withdrawal of Southern Delegations—Convention Adjourns to Baltimore—The Constitutional Union Convention Nominates John Bell [Tenn.] and Edward Everett [Mass.]—Abraham Lincoln [Ill.] Looms Up as a Candidate for the Republican Nomination—His Speech at Cooper Union, New York, on "Slavery as the Fathers Viewed It"—The Republican Convention at Chicago Nominates Abraham Lincoln [Ill.] and Hannibal Hamlin [Me.]—Its Platform—The Adjourned Democratic Convention at Baltimore—Douglas Delegates of the Contesting Delegations Are Seated—Southern Delegates Withdraw—Stephen A. Douglas [Ill.] and Herschel V. Johnson [Ga.] Are Nominated on a "Popular Sovereignty" Platform, Supplemented by a Resolution Submitting to Any Adjudication of the Question Which Might Be Made by the Supreme Court—Seceding Delegates Hold a Convention in Maryland Institute, Baltimore—They Nominate John C. Breckinridge [Ky.] and Joseph Lane [Ore.] on the Charleston Minority Platform—Summary of the Issues of the Campaign by Horace Greeley—Election of Lincoln and Hamlin.

ON April 23, 1860, the National Democratic Convention met at Charleston (S. C.). The Southern element early showed its power: Caleb Cushing [Mass.] who, as Attorney-General under Pierce, had declared the Missouri Compromise unconstitutional, was elected chairman, and the majority of the committee on platform brought forward a resolution inspired by William L. Yancey [Ala.], denying the doctrine of "unfriendly legislation" and proposing to establish the principle of the Dred Scott decision by positive legislation. The minority of the committee reported in favor of simply reaffirming the Cincinnati platform of 1856.

In the debate in the convention upon the platform

The discussions upon the Brown and Davis resolutions chiefly occupied the Senate throughout the remainder of the session; they extended to all the important phases of the slavery question as these developed into special issues in the course of the campaign (the various parties holding their conventions while Congress was in session). Dr. Hermann von Holst, in his "Constitutional History of the United States," says:

"The debates on the Davis resolutions, to which American historians have hitherto paid scarcely any attention, are of much greater importance for the right understanding of the irrepressibility of the conflict than the numberless compromise proposals and the endless negotiations between the Federal Executive and the seceded States which they never tire of following into the remotest details, although quite a voluminous library has been written on them."

On May 24, a vote was reached on Senator Davis' resolutions, and they were passed by a strict party vote, approximately 36 to 20 votes, the latter being the full strength of the Republicans in the Senate. On the fourth resolution, that which sounded the death-knell to Senator Douglas' theory of "unfriendly legislation" against slavery in the Territories, George E. Pugh [O.], a Douglas Democrat, voted with the Republicans. Senator Douglas was absent, through sickness, during the balloting.

Mr. Yancey and other Southern delegates took the position that the election of President Buchanan had been accomplished by a shuffling platform which was interpreted one way in the South and another way in the North, and that the South would not stand for a repetition of such double dealing but was determined to assert its constitutional right to carry its property into the Territories. Therefore the South demanded that the convention take a "step in advance" upon the question of slavery.

"We shall now succeed in a clear exhibition of our principles, or not at all. If gentlemen of the North insist on a 'squatter sovereignty' platform in face of its condemnation by the Supreme Court in its Dred Scott decision, it is you, and not we, who will be responsible for the dissolution of the Democratic party, and, indeed, of the Union itself, since it is the unity of the Democratic party that alone holds the North and South together."

To this Senator George E. Pugh [O.] responded:

"Thank God that a bold and honest man [Mr. Yancey] has at last spoken, and told the whole truth with regard to the demands of the South. It is now plainly before the Convention and the country that the South *does* demand an advanced step from the Democratic party." Mr. Pugh here read the resolves of the Alabama Democratic State Convention of 1856, to prove that the South was *then* satisfied with what it now rejects. He proceeded to show that the Northern Democrats had sacrificed themselves in battling for the rights of the South, and instanced one and another of the delegates there present, who had been defeated and thrown out of public life thereby. He concluded: "And now the very weakness thus produced is urged as a reason why the North should have no weight in forming the platform! The Democracy of the North are willing to stand by the old landmarks—to reaffirm the old faith. They will deeply regret to part with their Southern brethren. But if the gentlemen from the South can only abide with us on the terms they now propound *they must go*. The Northwest must and will be heard and felt. The Northern Democrats are not children, to be told to stand here—to stand there—to be moved at the beck and bidding of the South. Because we are in a minority on account of our fidelity to our constitutional obligations we are told, in effect,

that we must put our hands on our mouths, and our mouths in the dust.¹ Gentlemen," said Mr. Pugh, "you mistake us—we will not do it."

On April 30, by a vote of 165 to 138, the convention adopted the minority report.

Thereupon the delegations from Alabama, Mississippi, South Carolina, Florida, Texas, Georgia, and Arkansas, all but two delegates from Louisiana, and two delegates from Delaware withdrew from the convention.

It was then decided by the chairman that the remaining delegates elect the nominees for President and Vice-President by a two-thirds vote of the delegates including the seceded members. This meant that the votes of 202 out of 252 delegates present were required to elect. After 57 fruitless ballots in which Stephen A. Douglas [Ill.] obtained a maximum vote of 152½, the convention adjourned on May 3 to meet at Baltimore on June 18, having previously ordered the States with seceding delegates to fill the vacancies.

In the meantime the seceders had held a convention of their own which was presided over by James A. Bayard, Jr. [Del.]; it adjourned to meet at Richmond on June 12.

It was a foregone conclusion that Senator Douglas would be the nominee of the Baltimore Convention. The anti-Douglas Democrats in the Senate showed their determination to divide the party, and nominate another candidate, by continuing with increased vigor the warfare upon the Senator from Illinois which had been begun in the Davis resolutions against his doctrine of "unfriendly legislation."

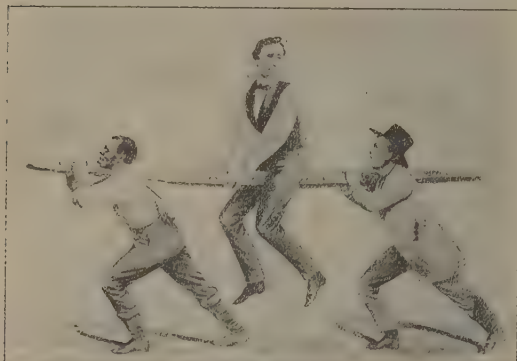
THE CONSTITUTIONAL UNION CONVENTION

On May 9 the Constitutional Union party, composed largely of the supporters of Millard Fillmore in 1856, met at Baltimore and nominated John Bell [Tenn.] for President and Edward Everett [Mass.] for Vice-Presi-

¹ An oft-repeated sentiment first uttered by Josiah Quincy, 2nd [see Volume I, page 69].

Lincoln had chosen as his theme "Slavery as the Fathers Viewed It," and, carefully preparing the speech by studying "Elliott's Debates," he had written it out in full.

When on February 27, 1860, he stepped upon the large platform of Cooper Union, he found himself surrounded by every Republican leader of New York and Brooklyn, and facing an audience which filled every seat



THE RAIL CANDIDATE

From the collection of the New York Public Library

and crowded the aisles. After a most complimentary introduction by William Cullen Bryant, the editor of the *New York Evening Post*, he proceeded to deliver what is generally conceded to be the most conclusive argument that had ever been presented against the thesis of the Northern Democrats in general and Senator Douglas in particular, that the founders of the nation intended that the Federal Government should have no control over slavery in the Territories.

Says Henry C. Whitney, the friend and biographer of Lincoln:

dent on a platform which declared that it was "both the part of patriotism and of duty to recognize no political principle other than the Constitution of the country, the union of the States, and the enforcement of the laws." It was generally recognized that the new party would cut a small figure in the election. Thaddeus Stevens [Pa.] wittily characterized the convention as a "family party, and all there." However, events so shaped themselves that, with less than half the popular votes of the Douglas ticket, the Bell-Everett ticket polled more than three times the number of its electoral votes.

LINCOLN AS A "DARK HORSE"

It was generally expected that Senator William H. Seward [N. Y.] would be the presidential nominee of the Republican Convention. However, there was a growing desire in the Republican party, even in Seward's own State, to select a candidate who would not be handicapped by the antagonism which the promulgator of the "higher law" had aroused among the more moderate element in the North, without whose votes the nominee of the convention could hardly expect election even in view of the division in the Democratic party.

Among the presidential "dark horses" there began to loom that astute yet self-sacrificing Illinois lawyer who had done more than any other Republican to divide the Democratic party by forcing its coming presidential candidate to take a position whereby he would retain his place in the Senate and the leadership of the Northern section of his party only at the sacrifice of Southern support.

Therefore, when the Republican leaders of New York City learned that Abraham Lincoln had accepted the invitation of the Young Men's Republican Club of Brooklyn to deliver an address in Plymouth Church (of which the Abolitionist Henry Ward Beecher was pastor) they secured a change of the place of speaking to a more public and less radical forum—Cooper Union in New York City, in order that they might endorse the meeting by their attendance.

This great speech is worthy of study. It was the last elaborate speech he ever made. In it he departed somewhat from his former style. The close political student will notice a system, formalism, precision, and rigidity of logic not apparent in former speeches; a terseness and vigor of language of greater emphasis than was before known; an absolute pruning of all redundancies, both in thought and in expression. It was a massive structure of unhewn logic, without an interstice or flaw. Singular to say, the style, in some places, is almost precisely that of John C. Calhoun, yet the speech bears the same relation to the slavery issue, as it then presented itself, that Webster's reply to Hayne bore to "the Constitution and the Union" in 1830. It was a dignified, stately, solemn declaration of the concrete principles of liberty as they existed in the minds of the American people and as they would be enforced by them at the first opportunity.

It was a genuine revelation and surprise. The conservative *Evening Post* published the speech entire the next day by express order of its venerable editor, whose warmest commendation Lincoln also received. The entire press of the city eulogized it in the highest terms. On the last day of winter, in 1860, Mr. Lincoln awoke to find himself famous; on the first day of winter, in 1860, he was President-elect of this mighty nation.

SLAVERY AS THE FATHERS VIEWED IT

ADDRESS AT COOPER UNION, NEW YORK

BY ABRAHAM LINCOLN

"The facts with which I shall deal this evening are mainly old and familiar; nor is there anything new in the general use I shall make of them. If there shall be any novelty it will be in the mode of presenting the facts, and the inferences and observations following that presentation. In his speech last autumn at Columbus, Ohio, as reported in the *New York Times*, Senator Douglas said:

Our fathers, when they framed the government under which we live, understood this question just as well as, and even better than, we do now.

I fully indorse this, and I adopt it as a text for this discourse. I so adopt it because it furnishes a precise and an agreed starting-point for a discussion between Republicans and that wing of the Democracy headed by Senator Douglas. It

simply leaves the inquiry: What was the understanding those fathers had of the question mentioned?

What is the frame of Government under which we live? The answer must be, "The Constitution of the United States." That Constitution consists of the original, framed in 1787, and under which the present Government first went into operation, and twelve subsequently framed amendments, the first ten of which were framed in 1789.

Who were our fathers that framed the Constitution? I suppose the "thirty-nine" who signed the original instrument may be fairly called our fathers who framed that part of the present Government. It is almost exactly true to say they framed it, and it is altogether true to say they fairly represented the opinion and sentiment of the whole nation at that time. Their names, being familiar to nearly all, and accessible to quite all, need not now be repeated.

I take these "thirty-nine," for the present, as being "our fathers who framed the Government under which we live." What is the question which, according to the text, those fathers understood "just as well, and even better, than we do now"?¹

It is this: Does the proper division of local from federal authority, or anything in the Constitution, forbid our Federal Government to control as to slavery in our Federal Territories?

Upon this Senator Douglas holds the affirmative, and Republicans the negative. This affirmation and denial form an issue; and this issue—this question—is precisely what the text declares our fathers understood "better than we." Let us now inquire whether the "thirty-nine," or any of them, ever acted upon this question; and, if they did, how they acted upon it—how they expressed that better understanding. In 1784, three years before the Constitution, the United States then owning the Northwestern Territory, and no other, the Congress of the Confederation had before them the question of prohibiting slavery in that Territory;² and four of the "thirty-nine" who afterward framed the Constitution were in that Congress, and voted on that question. Of these, Roger Sherman, Thomas Mifflin, and Hugh Williamson voted for the prohibition, thus showing that, in their understanding, no line dividing local from federal authority, nor anything else, properly forbade the Federal Government to control as to slavery in Federal territory. The other of the four, James McHenry, voted against the prohibition, showing that for some cause he thought it improper to vote for it.

¹ The bill was reported by Thomas Jefferson. It prohibited slavery after 1800 above the parallel of 31° north latitude. It failed to pass by one vote.

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bade the Federal Government to control as to slavery in Federal territory.

No great while after the adoption of the original Constitution North Carolina ceded to the Federal Government the country now constituting the State of Tennessee; and a few years later Georgia ceded that which now constitutes the States of Mississippi and Alabama.¹ In both deeds of cession it was made a condition by the ceding States that the Federal Government should not prohibit slavery in the ceded country. Besides this, slavery was then actually in the ceded country. Under these circumstances Congress, on taking charge of these countries, did not absolutely prohibit slavery within them. But they did interfere with it—take control of it—even there, to a certain extent. In 1798 Congress organized the Territory of Mississippi. In the act of organization they prohibited the bringing of slaves into the Territory from any place without the United States, by fine, and giving freedom to slaves so brought. This act passed both branches of Congress without yeas and nays. In that Congress were three of the "thirty-nine" who framed the original Constitution. They were John Langdon, George Read, and Abraham Baldwin. They all probably voted for it. Certainly they would have placed their opposition to it upon record if, in their understanding, any line dividing local from federal authority, or anything in the Constitution, properly forbade the Federal Government to control as to slavery in Federal territory.

In 1803 the Federal Government purchased the Louisiana country. Our former territorial acquisitions came from certain of our own States; but this Louisiana country was acquired from a foreign nation. In 1804 Congress gave a territorial organization to that part of it which now constitutes the State of Louisiana. New Orleans, lying within that part, was an old and comparatively large city. There were other considerable towns and settlements, and slavery was extensively and thoroughly intermingled with the people. Congress did not, in the Territorial Act, prohibit slavery; but they did interfere with it—take control of it—in a more marked and extensive way than they did in the case of Mississippi. The substance of the provision therein made in relation to slaves was:

1st. That no slave should be imported into the Territory from foreign parts.

2d. That no slave should be carried into it who had been

¹ The cession by North Carolina was accepted by Congress in 1790; that by Georgia in 1798.

In 1787, still before the Constitution, but while the convention was in session framing it, and while the Northwestern Territory still was the only Territory owned by the United States, the same question of prohibiting slavery in the Territory again came before the Congress of the Confederation; and two more of the "thirty-nine" who afterward signed the Constitution were in that Congress, and voted on the question. They were William Blount and William Few; and they both voted for the prohibition—thus showing that in their understanding no line dividing local from Federal authority, nor anything else, properly forbade the Federal Government to control as to slavery in Federal territory. This time the prohibition became a law, being part of what is now well known as the ordinance of '87.

The question of Federal control of slavery in the Territories seems not to have been directly before the convention which framed the original Constitution; and hence it is not recorded that the "thirty-nine," or any of them, while engaged on that instrument, expressed any opinion on that precise question.

In 1789, by the first Congress which sat under the Constitution, an act was passed to enforce the ordinance of '87, including the prohibition of slavery in the Northwestern Territory. The bill for this act was reported by one of the "thirty-nine"—Thomas Fitzsimons, then a member of the House of Representatives from Pennsylvania. It went through all its stages without a word of opposition, and finally passed both branches without ayes and nays, which is equivalent to a unanimous passage. In this Congress there were sixteen of the thirty-nine Fathers who framed the original Constitution. They were John Langdon, Nicholas Gilman, William S. Johnson, Roger Sherman, Robert Morris, Thomas Fitzsimons, William Few, Abraham Baldwin, Rufus King, William Paterson, George Clymer, Richard Bassett, George Read, Pierce Butler, Daniel Carroll, and James Madison.

This shows that, in their understanding, no line dividing local from Federal authority, nor anything in the Constitution, properly forbade Congress to prohibit slavery in the Federal territory; else both their fidelity to correct principle, and their oath to support the Constitution, would have constrained them to oppose the prohibition.

Again, George Washington, another of the "thirty-nine," was then President of the United States, and as such approved and signed the bill, thus completing its validity as a law, and thus showing that, in his understanding, no line dividing local from Federal authority, nor anything in the Constitution, for-

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imported into the United States since the first day of May, 1798.

3d. That no slave should be carried into it, except by the owner, and for his own use as a settler; the penalty in all the cases being a fine upon the violator of the law, and freedom to the slave.

This act also was passed without ayes and nays. In the Congress which passed it there were two of the "thirty-nine." They were Abraham Baldwin and Jonathan Dayton. As stated in the case of Mississippi, it is probable they both voted for it. They would not have allowed it to pass without recording their opposition to it if, in their understanding, it violated either the line properly dividing local from federal authority, or any provision of the Constitution.

In 1819-20 came and passed the Missouri question. Many votes were taken, by yeas and nays, in both branches of Congress, upon the various phases of the general question. Two of the "thirty-nine"—Rufus King and Charles Pinckney—were members of that Congress. Mr. King steadily voted for slavery prohibition and against all compromises, while Mr. Pinckney as steadily voted against slavery prohibition and against all compromises. By this Mr. King showed that, in his understanding, no line dividing local from Federal authority, nor anything in the Constitution, was violated by Congress prohibiting slavery in Federal territory; while Mr. Pinckney, by his votes, showed that, in his understanding, there was some sufficient reason for opposing such prohibition in that case.

The cases I have mentioned are the only acts of the "thirty-nine," or of any of them, upon the direct issue, which I have been able to discover.

To enumerate the persons who thus acted as being four in 1784, two in 1787, seventeen in 1789, three in 1798, two in 1804, and two in 1819-20, there would be thirty of them. But this would be counting John Langdon, Roger Sherman, William Few, Rufus King, and George Read each twice, and Abraham Baldwin three times. The true number of those of the "thirty-nine" whom I have shown to have acted upon the question, which, by the text, they understood better than we, is twenty-three, leaving sixteen not shown to have acted upon it in any way.

Here, then, we have twenty-three out of our thirty-nine fathers "who framed the Government under which we live," who have, upon their official responsibility and their corporal oaths, acted upon the very question which the text affirms they "understood just as well as, and even better than, we do now";

and twenty-one of them—a clear majority of the whole “thirty-nine”—so acting upon it as to make them guilty of gross political impropriety and wilful perjury if, in their understanding, any proper division between local and Federal authority, or anything in the Constitution they had made themselves, and sworn to support, forbade the Federal Government to control as to slavery in the Federal Territories. Thus the twenty-one acted; and, as actions speak louder than words, so actions under such responsibility speak still louder.

Two of the twenty-three voted against congressional prohibition of slavery in the Federal Territories, in the instances in which they acted upon the question. But for what reasons they so voted is not known. They may have done so because they thought a proper division of local from Federal authority, or some provision or principle of the Constitution, stood in the way; or they may, without any such question, have voted against the prohibition on what appeared to them to be sufficient grounds of expediency. No one who has sworn to support the Constitution can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it; but one may and ought to vote against a measure which he deems constitutional if, at the same time, he deems it inexpedient. It, therefore, would be unsafe to set down even the two who voted against the prohibition as having done so because, in their understanding, any proper division of local from federal authority, or anything in the Constitution, forbade the Federal Government to control as to slavery in Federal territory.

The remaining sixteen of the “thirty-nine,” so far as I have discovered, have left no record of their understanding upon the direct question of federal control of slavery in the Federal Territories. But there is much reason to believe that their understanding upon that question would not have appeared different from that of their twenty-three compeers, had it been manifested at all.

For the purpose of adhering rigidly to the text I have purposely omitted whatever understanding may have been manifested by any person, however distinguished, other than the thirty-nine fathers who framed the original Constitution; and, for the same reason, I have also omitted whatever understanding may have been manifested by any of the “thirty-nine” even on any other phase of the general question of slavery. If we should look into their acts and declarations on those other phases, as the foreign slave-trade, and the morality and policy of slavery

The constitutional amendments were introduced before, and passed after, the act enforcing the ordinance of '87; so that, during the whole pendency of the act to enforce the ordinance, the constitutional amendments were also pending.

The seventy-six members of that Congress, including sixteen of the framers of the original Constitution, as before stated, were preëminently our fathers who framed that part of “the Government under which we live” which is now claimed as forbidding the Federal Government to control slavery in the Federal Territories.

Is it not a little presumptuous in any one at this day to affirm that the two things which that Congress deliberately framed, and carried to maturity at the same time, are absolutely inconsistent with each other? And does not such affirmation become impudently absurd when coupled with the other affirmation, from the same mouth, that those who did the two things alleged to be inconsistent understood whether they really were inconsistent better than we—better than he who affirms that they are inconsistent?

It is surely safe to assume that the thirty-nine framers of the original Constitution, and the seventy-six members of the Congress which framed the amendments thereto, taken together, do certainly include those who may be fairly called “our fathers who framed the Government under which we live.” And, so assuming, I defy any man to show that any one of them ever, in his whole life, declared that, in his understanding, any proper division of local from federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the Federal Territories. I go a step further. I defy any one to show that any living man in the whole world ever did, prior to the beginning of the present century (and I might almost say prior to the beginning of the last half of the present century), declare that, in his understanding, any proper division of local from Federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the Federal Territories. To those who now so declare I give not only “our fathers who framed the Government under which we live,” but with them all other living men within the century in which it was framed, among whom to search, and they shall not be able to find the evidence of a single man agreeing with them.

Now and here let me guard a little against being misunderstood. I do not mean to say we are bound to follow implicitly in whatever our fathers did. To do so would be to discard all

generally, it would appear to us that on the direct question of federal control of slavery in Federal Territories the sixteen, if they had acted at all, would probably have acted just as the twenty-three did. Among that sixteen were several of the most noted antislavery men of those times—as Dr. Franklin, Alexander Hamilton, and Gouverneur Morris—while there was not one now known to have been otherwise, unless it may be John Rutledge, of South Carolina.

The sum of the whole is that, of our thirty-nine fathers who framed the original Constitution, twenty-one—a clear majority of the whole—certainly understood that no proper division of local from federal authority, nor any part of the Constitution, forbade the Federal Government to control slavery in the Federal Territories; while all the rest had probably the same understanding. Such, unquestionably, was the understanding of our fathers who framed the original Constitution; and the text affirms that they understood the question “better than we.”

But, so far, I have been considering the understanding of the question manifested by the framers of the original Constitution. In and by the original instrument a mode was provided for amending it; and, as I have already stated, the present frame of “the Government under which we live” consists of that original, and twelve amendatory articles framed and adopted since. Those who now insist that federal control of slavery in Federal Territories violates the Constitution point us to the provisions which they suppose it thus violates; and, as I understand, they all fix upon provisions in these amendatory articles, and not in the original instrument. The Supreme Court, in the *Dred Scott* case, plant themselves upon the fifth amendment, which provides that no person shall be deprived of “life, liberty, or property without the due process of law”; while Senator Douglas and his peculiar adherents plant themselves upon the tenth amendment, providing that “the powers not delegated to the United States by the Constitution” “are reserved to the States respectively, or to the people.”

Now, it so happens that these amendments were framed by the first Congress which sat under the Constitution—the identical Congress which passed the act, already mentioned, enforcing the prohibition of slavery in the Northwestern Territory. Not only was it the same Congress, but they were the identical, same individual men who, at the same session, and at the same time within the session, had under consideration, and in progress toward maturity, these constitutional amendments, and this act prohibiting slavery in all the territory the nation then owned.

the lights of current experience—to reject all progress, all improvement. What I do say is that, if we would supplant the opinions and policy of our fathers in any case, we should do so upon evidence so conclusive and argument so clear that even their great authority, fairly considered and weighed, cannot stand; and most surely not in a case whereof we ourselves declare they understood the question better than we.

If any man at this day sincerely believes that a proper division of local from Federal authority, or any part of the Constitution, forbids the Federal Government to control as to slavery in the Federal Territories, he is right to say so, and to enforce his position by all truthful evidence and fair argument which he can. But he has no right to mislead others who have less access to history, and less leisure to study it, into the false belief that “our fathers who framed the Government under which we live” were of the same opinion—thus substituting falsehood and deception for truthful evidence and fair argument. If any man at this day sincerely believes “our fathers who framed the Government under which we live” used and applied principles, in other cases, which ought to have led them to understand that a proper division of local from Federal authority, or some part of the Constitution, forbids the Federal Government to control as to slavery in the Federal Territories, he is right to say so. But he should, at the same time, brave the responsibility of declaring that, in his opinion, he understands their principles better than they did themselves; and especially should he not shirk that responsibility by asserting that they “understood the question just as well as, and even better than, we do now.”

But enough! Let all who believe that “our fathers who framed the government under which we live understood this question just as well as, and even better than, we do now,” speak as they spoke, and act as they acted upon it. This is all Republicans ask—all Republicans desire—in relation to slavery. As those fathers marked it, so let it be again marked, as an evil not to be extended, but to be tolerated and protected only because of and so far as its actual presence among us makes that toleration and protection a necessity. Let all the guarantees those fathers gave it be not grudgingly, but fully and fairly, maintained. For this Republicans contend, and with this, so far as I know or believe, they will be content.

Here the speaker addressed himself to the Southern people on their charge that the Republican party was

"sectional." Alluding to the refusal of the South to permit the spreading of Republican doctrines he said:

The fact that we get no votes in your section is a fact of your making, and not of ours. And, if there be fault in that fact, that fault is primarily yours, and remains so until you show that we repel you by some wrong principle or practice. If we do repel you by any wrong principle or practice, the fault is ours; but this brings you to where you ought to have started—to a discussion of the right or wrong of our principle. If our principle, put in practice, would wrong your section for the benefit of ours, or for any other object, then our principle, and we with it, are sectional, and are justly opposed and denounced as such. Meet us, then, on the question of whether our principle, put in practice, would wrong your section; and so meet us as if it were possible that something may be said on our side. Do you accept the challenge? No! Then you really believe that the principle which "our fathers who framed the Government under which we live" thought so clearly right as to adopt it, and indorse it again and again, upon their official oaths, is in fact so clearly wrong as to demand your condemnation without a moment's consideration.

Some of you delight to flaunt in our faces the warning against sectional parties given by Washington in his Farewell Address. Less than eight years before Washington gave that warning he had, as President of the United States, approved and signed an act of Congress enforcing the prohibition of slavery in the Northwestern Territory, which act embodied the policy of the Government upon that subject up to and at the very moment he penned that warning; and about one year after he penned it he wrote Lafayette that he considered that prohibition a wise measure, expressing in the same connection his hope that we should at some time have a confederacy of free States.

Bearing this in mind, and seeing that sectionalism has since arisen upon this same subject, is that warning a weapon in your hands against us or in our hands against you? Could Washington himself speak, would he cast the blame of that sectionalism upon us, who sustain his policy, or upon you, who repudiate it? We respect that warning of Washington, and we commend it to you, together with his example pointing to the right application of it.

But you say you are conservative—eminently conservative—while we are revolutionary, destructive, or something of the

tried and failed to make the proof. You need not be told that persisting in a charge which one does not know to be true is simply malicious slander.

Some of you admit that no Republican designedly aided or encouraged the Harper's Ferry affair, but still insist that our doctrines and declarations necessarily lead to such results. We do not believe it. We know we hold no doctrine, and make no declaration, which were not held to and made by "our fathers who framed the Government under which we live." You never dealt fairly by us in relation to this affair. When it occurred, some important State elections were near at hand, and you were in evident glee with the belief that, by charging the blame upon us, you could get an advantage of us in those elections. The elections came, and your expectations were not quite fulfilled. Every Republican man knew that, as to himself at least, your charge was a slander, and he was not much inclined by it to cast his vote in your favor. Republican doctrines and declarations are accompanied with a continual protest against any interference whatever with your slaves, or with you about your slaves. Surely this does not encourage them to revolt. True, we do, in common with "our fathers who framed the Government under which we live," declare our belief that slavery is wrong; but the slaves do not hear us declare even this. For anything we say or do, the slaves would scarcely know there is a Republican party. I believe they would not, in fact, generally know it but for your misrepresentations of us in their hearing. In your political contests among yourselves, each faction charges the other with sympathy with Black Republicanism; and then, to give point to the charge, defines Black Republicanism simply to be insurrection, blood, and thunder among the slaves.

Slave insurrections are no more common now than they were before the Republican party was organized. What induced the Southampton insurrection, twenty-eight years ago, in which at least three times as many lives were lost as at Harper's Ferry? You can scarcely stretch your very elastic fancy to the conclusion that Southampton was "got up by Black Republicanism."

¹In August, 1831, at Southampton, Va., Nat Turner, a negro, led an insurrection of his fellow slaves in the course of which more than sixty white people, most of them women and children, were massacred. The Abolitionists were charged with instigating the rising, but their historians deny the allegation, and no proof has come to light of their connection with the crime.

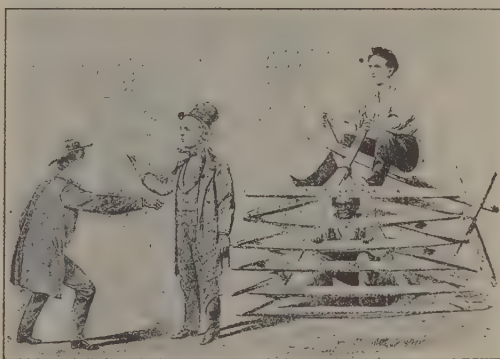
sort. What is conservatism? Is it not adherence to the old and tried, against the new and untried? We stick to, contend for, the identical old policy on the point in controversy which was adopted by "our fathers who framed the Government under which we live"; while you with one accord reject, and scout, and spit upon that old policy, and insist upon substituting something new. True, you disagree among yourselves as to what that substitute shall be. You are divided on new propositions and plans, but you are unanimous in rejecting and denouncing the old policy of the fathers. Some of you are for reviving the foreign slave trade; some for a congressional slave code for the Territories; some for Congress forbidding the Territories to prohibit slavery within their limits; some for maintaining slavery in the Territories through the judiciary; some for the "gur-reat pur-principle" that, "if one man would enslave another, no third man should object," fantastically called "popular sovereignty"; but never a man among you is in favor of Federal prohibition of slavery in Federal Territories, according to the practice of "our fathers who framed the Government under which we live." Not one of all your various plans can show a precedent or an advocate in the century within which our Government originated. Consider, then, whether your claim of conservatism for yourselves, and your charge of destructiveness against us, are based on the most clear and stable foundations.

Again, you say we have made the slavery question more prominent than it formerly was. We deny it. We admit that it is more prominent, but we deny that we made it so. It was not we, but you who discarded the old policy of the fathers. We resisted, and still resist, your innovation; and thence comes the greater prominence of the question. Would you have that question reduced to its former proportions? Go back to that old policy. What has been will be again, under the same conditions. If you would have the peace of the old times, readopt the precepts and policy of the old times.

You charge that we stir up insurrections among your slaves. We deny it; and what is your proof? Harper's Ferry! John Brown!! John Brown was no Republican; and you have failed to implicate a single Republican in his Harper's Ferry enterprise. If any member of our party is guilty in that matter, you know it or you do not know it. If you do know it, you are inexcusable for not designating the man and proving the fact. If you do not know it, you are inexcusable for asserting it, and especially for persisting in the assertion after you have

Here the speaker showed the improbability of any other than sporadic servile insurrections.

In the language of Mr. Jefferson, uttered many years ago: "It is still in our power to direct the process of emancipation and deportation peaceably, and in such slow degrees as that the evil will wear off insensibly; and their places be, *pari passu*, filled up by free white laborers. If, on the contrary, it is left



"THE NIGGER IN THE WOODPILE."
From the collection of the New York Historical Society

to force itself on, human nature must shudder at the prospect held up."

Mr. Jefferson did not mean to say, nor do I, that the power of emancipation is in the Federal Government. He spoke of Virginia; and, as to the power of emancipation, I speak of the slaveholding States only. The Federal Government, however, as we insist, has the power of restraining the extension of the institution—the power to insure that a slave insurrection shall never occur on any American soil which is now free from slavery.

John Brown's effort was peculiar. It was not a slave insurrection. It was an attempt by white men to get up a revolt among slaves, in which the slaves refused to participate. In fact, it was so absurd that the slaves, with all their ignor-

ance, saw plainly enough it could not succeed. That affair, in its philosophy, corresponds with the many attempts, related in history, at the assassination of kings and emperors. An enthusiast broods over the oppression of a people till he fancies himself commissioned by Heaven to liberate them. He ventures the attempt, which ends in little else than his own execution. Orsini's attempt on Louis Napoleon,¹ and John Brown's attempt at Harper's Ferry, were, in their philosophy, precisely the same. The sagacious to cast blame on old England in the one case, and on New England in the other, does not disprove the senselessness of the two things.

And how much would it avail you if you could, by the use of John Brown, Helper's book,² and the like, break up the Republican organization? Human action can be modified to some extent, but human nature cannot be changed. There is a judgment and a feeling against slavery in this nation which cost at least a million and a half of votes. You cannot destroy that judgment and feeling—that sentiment—by breaking up the political organization which rallies around it. You can scarcely scatter and disperse an army which has been formed into order in the face of your heaviest fire; but, if you could, how much would you gain by forcing the sentiment which created it out of the peaceful channel of the ballot-box into some other channel? What would that other channel probably be? Would the number of John Browns be lessened or enlarged by the operation?

But you will break up the Union rather than submit to a denial of your constitutional rights.

That has a somewhat reckless sound; but it would be palliated, if not fully justified, were we proposing, by the mere force of numbers, to deprive you of some right plainly written down in the Constitution. But we are proposing no such thing.

When you make these declarations you have a specific and well-understood allusion to an assumed constitutional right of yours to take slaves into the Federal Territories, and to hold them there as property. But no such right is specifically written in the Constitution. That instrument is literally silent about any such right. We, on the contrary, deny that such a right has any existence in the Constitution, even by implication.

¹ Felice Orsini was chief of a band of desperadoes that attempted the life of Napoleon III on January 14, 1858. The plot had been hatched in London, and many Frenchmen bitterly charged the British with complicity in the crime.

² "The Impending Crisis," by Hinton R. Helper; see page 209.

to their notice, is it not reasonable to expect that they will withdraw the mistaken statement, and reconsider the conclusion based upon it?

And then it is to be remembered that "our fathers who framed the Government under which we live"—the men who made the Constitution—decided this same constitutional question in our favor long ago; decided it without division among themselves when making the decision; without division among themselves about the meaning of it after it was made, and, so far as any evidence is left, without basing it upon any mistaken statement of facts.

Under all these circumstances, do you really feel yourselves justified to break up this Government unless such a court decision as yours is shall be at once submitted to as a conclusive and final rule of political action? But you will not abide the election of a Republican President! In that supposed event, you say, you will destroy the Union; and then, you say, the great crime of having destroyed it will be upon us! That is cool. A highwayman holds a pistol to my ear, and mutters through his teeth, "Stand and deliver, or I shall kill you, and then you will be a murderer!"

To be sure, what the robber demanded of me—my money—was my own; and I had a clear right to keep it; but it was no more my own than my vote is my own; and the threat of death to me, to extort my money, and the threat of destruction to the Union, to extort my vote, can scarcely be distinguished in principle.

A few words now to Republicans. It is exceedingly desirable that all parts of this great Confederacy shall be at peace, and in harmony one with another. Let us Republicans do our part to have it so. Even though much provoked, let us do nothing through passion and ill temper. Even though the Southern people will not so much as listen to us, let us calmly consider their demands, and yield to them if, in our deliberate view of our duty, we possibly can. Judging by all they say and do, and by the subject and nature of their controversy with us, let us determine, if we can, what will satisfy them.

Will they be satisfied if the Territories be unconditionally surrendered to them? We know they will not. In all their present complaints against us, the Territories are scarcely mentioned. Invasions and insurrections are the rage now. Will it satisfy them if, in the future, we have nothing to do with invasions and insurrections? We know it will not. We so know, because we know we never had anything to do with invasions

Your purpose, then, plainly stated, is that you will destroy the Government, unless you be allowed to construe and force the Constitution as you please on all points in dispute between you and us. You will rule or ruin in all events.

This, plainly stated, is your language. Perhaps you will say the Supreme Court has decided the disputed constitutional question in your favor. Not quite so. But waiving the lawyer's distinction between dictum and decision, the court has decided the question for you in a sort of way. The court has substantially said it is your constitutional right to take slaves into the Federal Territories, and to hold them there as property. When I say the decision was made in a sort of way, I mean it was made in a divided court, by a bare majority of the judges, and they not quite agreeing with one another in the reasons for making it; that it is so made as that its avowed supporters disagree with one another about its meaning, and that it was mainly based upon a mistaken statement of fact—the statement in the opinion that "the right of property in a slave is distinctly and expressly affirmed in the Constitution."

An inspection of the Constitution will show that the right of property in a slave is not "distinctly and expressly affirmed" in it. Bear in mind, the judges do not pledge their judicial opinion that such right is impliedly affirmed in the Constitution; but they pledge their veracity that it is "distinctly and expressly" affirmed there—"distinctly," that is, not mingled with anything else—"expressly," that is, in words meaning just that, without the aid of any inference, and susceptible of no other meaning.

If they had only pledged their judicial opinion that such right is affirmed in the instrument by implication, it would be open to others to show that neither the word "slave" nor "slavery" is to be found in the Constitution, nor the word "property" even, in any connection with language alluding to the things slave or slavery; and that wherever in that instrument the slave is alluded to, he is called a "person"; and wherever his master's legal right in relation to him is alluded to, it is spoken of as "service or labor which may be due"—as a debt payable in service or labor. Also it would be open to show, by contemporaneous history, that this mode of alluding to slaves and slavery, instead of speaking of them, was employed on purpose to exclude from the Constitution the idea that there could be property in man.

To show all this is easy and certain.

When this obvious mistake of the judges shall be brought

and insurrections; and yet this total abstaining does not exempt us from the charge and the denunciation.

The question recurs, What will satisfy them? Simply this: we must not only let them alone, but we must somehow convince them that we do let them alone. This, we know by experience, is no easy task. We have been so trying to convince them from the very beginning of our organization, but with no success. In all our platforms and speeches we have constantly protested our purpose to let them alone; but this has had no tendency to convince them. Alike unavailing to convince them is the fact that they have never detected a man of us in any attempt to disturb them.

These natural and apparently adequate means all failing, what will convince them? This, and this only: cease to call slavery wrong, and join them in calling it right. And this must be done thoroughly—done in acts as well as in words. Silence will not be tolerated—we must place ourselves avowedly with them. Senator Douglas's new sedition law must be enacted and enforced, suppressing all declarations that slavery is wrong, whether made in politics, in press, in pulpits, or in private. We must arrest and return their fugitive slaves with greedy pleasure. We must pull down our free-State constitutions. The whole atmosphere must be disinfected from all taint of opposition to slavery before they will cease to believe that all their troubles proceed from us.

I am quite aware they do not state their case precisely in this way. Most of them would probably say to us, "Let us alone; do nothing to us, and say what you please about slavery. But we do let them alone—have never disturbed them—so that, after all, it is what we say which dissatisfies them. They will continue to accuse us of doing until we cease saying."

I am also aware that they have not as yet in terms demanded the overthrow of our free-State constitutions. Yet those constitutions declare the wrong of slavery with more solemn emphasis than do all other sayings against it; and when all these other sayings shall have been silenced the overthrow of these constitutions will be demanded, and nothing be left to resist the demand. It is nothing to the contrary that they do not demand the whole of this just now. Demanding what they do, and for the reason they do, they can voluntarily stop nowhere short of this consummation. Holding as they do that slavery is morally right and socially elevating, they cannot cease to demand a full national recognition of it, as a legal right and a social blessing.

Nor can we justifiably withhold this on any ground save our

conviction that slavery is wrong. If slavery is right, all words, acts, laws, and constitutions against it are themselves wrong, and should be silenced and swept away. If it is right, we cannot justly object to its nationality—its universality; if it is wrong, they cannot justly insist upon its extension—its enlargement. All they ask we could readily grant, if we thought slavery right; all we ask they could as readily grant if they thought it wrong. Their thinking it right, and our thinking it wrong, is the precise fact upon which depends the whole controversy. Thinking it right, as they do, they are not to blame for desiring its full recognition as being right; but, thinking it wrong, as we do, can we yield to them? Can we cast our votes with their view, and against our own? In view of our moral, social, and political responsibilities, can we do this?

Wrong as we think slavery is, we can yet afford to let it alone where it is, because that much is due to the necessity arising from its actual presence in the nation; but can we, while our votes will prevent it, allow it to spread into the national Territories and to overrun us here in these Free States?

If our sense of duty forbids this, then let us stand by our duty fearlessly and effectively. Let us be diverted by none of those sophistical contrivances wherewith we are so industriously plied and belabored—contrivances such as groping for some middle ground between the right and the wrong; vain as the search for a man who should be neither a living man nor a dead man; such as a policy of "don't care" on a question about which all true men do care; such as Union appeals beseeching true Union men to yield to Disunionists, reversing the divine rule, and calling, not the sinners, but the righteous to repentance; such as invocations to Washington, imploring men to unsay what Washington said and undo what Washington did.

Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the Government, nor of dungeons to ourselves. Let us have faith that right makes might; and in that faith let us to the end dare to do our duty as we understand it.

THE REPUBLICAN CONVENTION

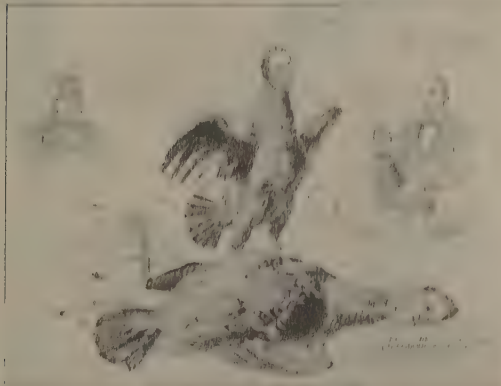
Abraham Lincoln and Senator Hannibal Hamlin [Me.] were nominated for President and Vice-President respectively by the Republican National Convention, which met in Chicago on May 16-18, 1860.

The platform adopted by the convention endorsed

THE CAMPAIGN OF 1860

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was impossible, the convention proceeded to vote for the presidential candidate. After the third ballot, Stephen A. Douglas was unanimously declared, by resolution, to be the regular candidate of the Democratic party. Herschel V. Johnson [Ga.] was nominated for Vice-President. Of course, the regularity of the nominations was denied by the Anti-Douglas Democrats.



THE GREAT MATCH AT BALTIMORE

[Between the "Blind Bantam" and the "Old Cook" of the White House]
From the collection of the New York Historical Society

In regard to the platform Douglas had demanded the assertion of the principles of popular sovereignty and non-intervention in the Territories, and this was so done. An article was added declaring it the duty of citizens and the members of the other branches of the Government to submit to the Supreme Court's decisions, future as well as past, with respect to the authority of the people in the Territories over slavery. This declaration, seemingly at variance with his doctrine of popular sovereignty, was accepted by Douglas, evidently as a sop to the South; he did not even attempt to har-

the principles of the Declaration of Independence and their embodiment in the Constitution; denounced the threats of disunion made by members of the Democracy; upheld the right of each State to control its own domestic institutions; denounced the armed invasion of any State or Territory; denounced the Buchanan Administration for its Lecompton policy; denounced the Supreme Court for construing, in the Dred Scott case, "the personal relation between master and servant to involve an unqualified property in persons," and for promulgating the "new dogma that the Constitution, of its own force, carried slavery into any or all of the Territories"; declared that "the normal condition of all the territory of the United States is that of freedom," and this condition should be maintained; branded the practical opening of the slave trade under the Buchanan Administration as a "crime against humanity and a burning shame to our country and age"; declared that events in Kansas-Nebraska had proved "the boasted Democratic principle of non-intervention and popular sovereignty" a fraud and a sham; and declared for a protective tariff, the homestead policy, and internal improvements (especially a Pacific railroad), and against discrimination against foreign-born citizens.

THE DEMOCRATIC CONVENTION

The adjourned Democratic Convention met, as ordered, at Baltimore on June 18. Several contesting delegations were present. The committee on credentials of delegates brought in two reports of which the majority report naming the Douglas delegates was adopted by the convention. Thereupon the delegations from its Southern States and from California and Oregon, as well as a part of the Massachusetts delegation, withdrew, leaving less than two thirds of the total delegates in the convention. Caleb Cushing [Mass.] resigned the chairmanship. Although the plan of nominating candidates by a two-thirds majority of all the delegates, counting seceders as well as those remaining, which Cushing had decided at Charleston to be the only proper method,

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GREAT AMERICAN DEBATES

monize it with the rest of the platform by any device similar to his "Freeport doctrine" of "unfriendly legislation,"—indeed, in this omission he seemed to abandon the disastrous "Freeport doctrine" finally and absolutely.

The seceding Democratic delegates from this convention with those chosen by South Carolina and Florida for the Richmond Convention (which was never held) met in a convention of their own in Baltimore on June 28. They chose Cushing for their chairman, unanimously adopted the Charleston minority platform, and nominated Vice-President John C. Breckinridge [Ky.] for President, and Joseph Lane [Ore.] for Vice-President.

Horace Greeley, in his "American Conflict," thus sums up the positions taken by the various parties in the campaign:

Discarding that of the "Constitutional Union" party as meaning anything in general and nothing in particular, the Lincoln, Douglas, and Breckinridge parties had deliberately planted themselves, respectively, on the following positions:

1. *Lincoln*.—Slavery can exist only by virtue of municipal law; and there is no law for it in the Territories, and no power to enact one. Congress can establish or legalize slavery nowhere, but is bound to prohibit it in or exclude it from any and every Federal Territory, whenever and wherever there shall be necessity for such exclusion or prohibition.

2. *Douglas*.—Slavery or no slavery in any Territory is entirely the affair of the white inhabitants of such Territory. If they choose to have it, it is their right; if they choose not to have it, they have a right to exclude or prohibit it. Neither Congress nor the people of the Union, or of any part of it, outside of said Territory, has any right to meddle with or trouble themselves about the matter.

3. *Breckinridge*.—The citizen of any State has a right to migrate to any Territory, taking with him anything which is property by the law of his own State, and hold, enjoy, and be protected in the use of such property in said Territory. And Congress is bound to render such protection wherever necessary, whether with or without the coöperation of the territorial legislature.

The influence of the Buchanan Administration was cast for Breckinridge, and his electors were nominated in nearly every Free State with the evident purpose of defeating Douglas, since it was impossible to win any Northern State for the Southern candidate. However, a coalition of the anti-Lincoln forces was made in several Northern States, although this precluded any assertion of principles by the Democratic campaign speakers, who were forced to content themselves with personal abuse of "Old Abe," and with the prediction that disunion would follow his election.

Nowhere in the South would the Breckinridge party consent to combine with the Douglas party, and this refusal was certain to cause the election of the Bell ticket in a number of the Southern States.

With all these odds against him Senator Douglas made a "whirlwind" campaign, speaking with remarkable force and effectiveness in nearly every free State and in many slave States. Lincoln remained at his home in Springfield, making no speeches and writing little beside a short autobiography, copies of which, with his speeches on the slavery question, were widely circulated as campaign documents, thus making the people acquainted with his homely and simple yet strong personality and the clear honesty of his principles. Many of the Northern States held elections for State officers in September and October, and the almost unvarying success of the Republicans in these showed the certainty of Lincoln's election in November.

The election was held on the 6th of the month, and before midnight of that day it was known that Abraham Lincoln was chosen chief magistrate of the nation; having received the votes of every Northern State save New Jersey (which gave him four of her seven votes) and California and Oregon, from which returns had not been received. The Pacific States also gave him their votes, his total in the Electoral College being 180 votes to 123, which latter were divided as follows: Breckinridge 72, Bell 39 (Virginia, Kentucky, and Tennessee), and Douglas 12 (Missouri, and 3 votes from New Jersey).

CHAPTER IX

"SLAVERY THE CORNER-STONE OF THE CONFEDERACY"

[DEBATES AND SPEECHES IN THE SOUTH ON SECESSION]

Anti-Election Meeting of South Carolina Secessionists—Address of Governor William H. Gist to South Carolina Legislature—Speech of Senator James Chesnut, Jr., "Unfurl the Palmetto Flag!"—Debate in the South Carolina Legislature on "Independent Action or Cooperation with Other Cotton States": in Favor of the Former, Mr. Mullins; of the latter, Mr. McGowan—Speech of Edmund Ruffin [Va.] at Columbia, S. C.: "Virginia Will Join the Confederacy"—Resignation of Federal Officers in South Carolina—Address of Governor Beriah Magoffin [Ky.] to the Southern States: "Remain in the Union to Fight for Southern Rights"—Ordinances of Secession Are Passed by South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, Texas—The Other Southern States Refuse to Secede—General Winfield Scott Vainly Warns the Administration to Reinforce the Southern Ports—Resignations from the Cabinet—Unsuccessful Embassy of Calebushing to South Carolina—President Buchanan Refuses to Meet Peace Commissions from South Carolina—Major Robert Anderson Removes Garrison in Charleston Harbor from Fort Moultrie to Fort Sumter—Seizure of Federal Ports and Other Property by Southern States—John B. Floyd, Secretary of War, Foiled in Attempts to Aid the Secessionists, and Involved in Charges of Defalcation, Resigns—*Star of the West* Is Fired Upon by the Secessionists—South Carolina Demands That the Government Surrender Fort Sumter—Famous Order of John A. Dix, Secretary of the Treasury, to Defend the American Flag—Surrender of the Army in Texas by General David E. Twiggs to the Secessionists—Summary of Federal Property Seized by the Secessionists—Organization of the Southern Confederacy—Its Constitution—Inauguration of President Jefferson Davis—His Inaugural Address—Speech of Vice-President Alexander H. Stephens on "Slavery the Corner-Stone of the Confederacy."

TWO weeks before the election (on October 25, 1860), a meeting of South Carolina statesmen was held at the residence of Senator James H. Hammond, near Augusta, at which there were present Gov. William H. Gist and the delegation to Congress,

Of the popular vote (4,645,390), however, Lincoln received only 1,857,610, which number was 930,170 less than a majority. Douglas received 1,291,574 votes, Breckinridge 850,082 votes, and Bell 646,124 votes.

with many other men of mark. By this meeting it was unanimously resolved that South Carolina should secede from the Union in the event of Lincoln's then almost certain election. Similar meetings of kindred spirits were held about the same time in Georgia, Alabama, Mississippi, and Florida. By the interchange of messages, letters, and visits, the entire slaveholding region had been prepared, so far as possible, for disunion in the event of a Republican, if not also of a Douglas, triumph.

Governor Gist [S. C.] called the legislature of the State to meet in extraordinary session on November 5 (the day before the election), to appoint presidential electors, these in South Carolina being chosen by the legislature instead of by the people directly. In his opening address the governor said:

"Under ordinary circumstances, your duty could be soon discharged by the election of electors representing the choice of the people of the State; but in view of the threatening aspect of affairs, and the strong probability of the election to the presidency of a sectional candidate, by a party committed to the support of measures which, if carried out, will inevitably destroy our equality in the Union, and ultimately reduce the Southern States to mere provinces of a consolidated despotism, to be governed by a fixed majority in Congress which is hostile to our institutions, and fatally bent upon our ruin, I would respectfully suggest that the legislature remain in session, and take such action as will prepare the State for any emergency that may arise.

"My own opinions of what the convention should do are of little moment; but, believing that the time has arrived when everyone, however humble he may be, should express his opinions in unmistakable language, I am constrained to say that the only alternative left, in my judgment, is the secession of South Carolina from the Federal Union. The indications from many of the Southern States justify the conclusion that the secession of South Carolina will be immediately followed, if not adopted simultaneously, by them, and ultimately by the entire South. The long-desired cooperation of the other States having similar institutions, for which so many of our citizens have been waiting, seems to be near at hand; and, if we are true to ourselves, will soon be realized. The State has, with great unanimity, de-

clared that she has the right peaceably to secede, and no power on earth can rightfully prevent it.

"If, in the exercise of arbitrary power, and forgetful of the lessons of history, the Government of the United States should attempt coercion, it will become our solemn duty to meet force by force.

He therefore recommended certain military measures.

With this preparation for defence, and with all the hallowed memories of past achievements, with our love of liberty, and hatred of tyranny, and with the knowledge that we are contending for the safety of our homes and firesides, we can confidently appeal to the Disposer of all human events, and safely trust our cause in His keeping."

Mr. James Chesnut, Jr., one of the United States Senators from South Carolina, was among the large number of leading politicians in attendance at the opening of the legislative session. He was serenaded on the evening of November 5. Replying to the ovation he said:

"Before the setting of to-morrow's sun, in all human probability, the destiny of this confederated Republic would be decided. He solemnly thought, in all human probability, that the Republican party would triumph in the election of Lincoln as President.

"The question now was, Would the South submit to a Black Republican President and a Black Republican Congress, which will claim the right to construe the Constitution of the country and administer the Government in their own hands, not by the law of the instrument itself, nor by that of the fathers of the country, nor by the practices of those who administered seventy years ago, but by rules drawn from their own blind consciences and crazy brains. They call us inferiors, semi-civilized barbarians, and claim the right to possess our lands, and give them to the destitute of the Old World and the profligates of this. They claim the dogmas of the Declaration of Independence as part of the Constitution, and that it is their right and duty to so administer the Government as to give full effect to them. The people now must choose whether they would be governed by enemies, or govern themselves.

"For himself, he would unfurl the Palmetto flag, fling it to the breeze, and, with the spirit of a brave man, determine to live and die as became our glorious ancestors, and ring the clarion notes of defiance in the ears of an insolent foe. He then spoke of the undoubted right to withdraw their delegated powers, and it was their duty, in the event contemplated, to withdraw them. It was their only safety.

"Mr. C. favored separate State action; saying the rest would flock to our standard."

Other South Carolina statesmen spoke in similar vein. Says Horace Greeley in his "American Conflict":

"There was great joy in Charleston, and wherever 'Fire-Eaters' most did congregate, on the morning of November 7. Men rushed to shake hands and congratulate each other on the glad tidings of Lincoln's election. *Now*, it was felt, and exultingly proclaimed, the last obstacle to 'Southern independence' has been removed, and the great experiment need no longer be postponed to await the pleasure of the weak, the faithless, the cowardly. It was clear that the election had resulted precisely as the master spirits had wished and hoped. *Now*, the apathy, at least of the other Cotton States, must be overcome; *now*, South Carolina will be able to achieve her long-cherished purpose of breaking up the Union, and founding a new confederacy on her own ideas, and on the 'peculiar institution of the South.'"

COÖPERATION WITH OTHER COTTON STATES

SOUTH CAROLINA LEGISLATURE, NOVEMBER, 1860

There was an animated debate in the South Carolina Legislature as to whether the State should immediately secede from the Union or wait for the coöperation of the other "Cotton" States. Mr. McGowan of Abbeville was in favor of the latter course. He said:

"Lincoln's election is taken as *an occasion* for action, but with us it is not the only *cause* for action. We have delayed for the last ten years for nothing but coöperation. It is the best and wisest policy to remain in the Union, with our Southern sis-

ters, in order to arrange the time when, and the manner how, of going out, and nothing else.

"The Southern States of this Union have more motives, more inducements, and *more necessities*, for concert and union than any people that has lived in the tide of time. They are one in soil and climate; one in productions, having a monopoly of the cotton region; one in institutions; and, more than all, one in their wrongs under the Constitution. Add to all this that they alone, of all the earth, have a peculiar institution—African slavery—which is absolutely necessary for them; without which they would cease to exist, and against which, under the influence of a fanatical sentiment, the world is banded. Upon the subject of this institution, we are *isolated* from the whole world, who are not only indifferent, but inimical, to it; and it would seem that the very weight of this outside pressure would compel us to unite.

"Besides, the history of the world is pregnant with admonition as to the necessity of union. The history of classic Greece, and especially that awful chapter upon the Peloponnesian war, appeals to us. The history of poor, dismembered Poland cries to us. The history of the Dutch Republic claims to be heard. Modern Italy and the states of Central America are now, at this moment, crying to us to unite. All history teaches us that 'United we stand, divided we fall.' All the Southern States would not be too many for our confederacy, whose flag would float, honored upon every sea, and under whose folds every citizen would be sure of protection and security. My God! what is the reason we cannot unite? It seems to me that we might with propriety address to the whole South the pregnant words of Milton:

'Awake! arise! or be forever fallen!'

"South Carolina has sometimes been accused of a paramount desire to lead or to disturb the councils of the South. Let us make one last effort for coöperation, and, in doing so, repel the false and unfounded imputation. Then, if we fail, and a convention is called under these circumstances, I and all of us will stand by the action of that convention.

"If South Carolina, in convention assembled, deliberately secedes—separate and alone, and, without any hope of coöperation, decides to cut loose from her moorings, surrounded as she is by Southern sisters in like circumstances—I will be one of her crew, and, in common with every true son of hers, will endeavor, with all the power that God has given me, to



THE FOX WITHOUT A TAIL
[South Carolina persuading the other slave States to secede]
From the collection of the New York Historical Society

*'Spread all her canvas to the breeze,
 And every threadbare sail,
 And give her to the God of storms,
 The lightning and the gale.'*"

Mr. Mullins, of Marion, followed. He said:

"South Carolina had tried coöperation, but had exhausted that policy. The State of Virginia had discredited the cause which our commissioner went there to advocate, although she treated him, personally, with respect; but she had as much as said there were no indignities which could drive her to take the leadership for Southern rights. *If we wait for coöperation, slavery and State rights would be abandoned, State sovereignty and the cause of the South lost forever, and we would be subjected to a dominion the parallel to which was that of the poor Indian under the British East India Company.* When they had pledged themselves to take the State out of the Union, and placed it on record, then he was willing to send a commissioner to Georgia, or any other Southern State, to announce our determination, and to submit the question whether they would join us or not. *We have it from high authority that the representative of one of the imperial powers of Europe, in view of the prospective separation of one or more of the Southern States from the present confederacy, has made propositions in advance for the establishment of such relations between it and the Government about to be established in this State, as will insure to that power such a supply of cotton for the future as their increasing demand for that article will require: this information is perfectly authentic.*"

Mr. Edmund Ruffin, of Virginia, had for many years been the editor of a leading agricultural monthly, and had thus acquired a very decided influence over the planters of the South. A devotee of slavery, he had hastened to Columbia, on the call of the legislature, to do his utmost for secession. He was serenaded on the evening of November 7, and in response he said:

"The question now before the country he had studied for years. It had been the one great idea of his life. The defence of the South, he verily believed, was to be secured only through the lead of South Carolina. As old as he was, he had come here to join them in that lead. *He wished Virginia was as ready as*

country would not admit of a division; the mouth and sources of the Mississippi River cannot be separated without the horrors of civil war. We cannot sustain you in this movement merely on account of the election of Lincoln. Do not precipitate us, by premature action, into a revolution or civil war, the consequences of which will be most frightful to all of us. It may yet be avoided. There is still hope, faint though it be. Kentucky is a border State, and has suffered more than all of you. She claims that, standing upon the same sound platform, you will sympathize with her, and stand by her, and not desert her in her exposed, perilous border position. She has a right to claim that her voice, and the voice of reason, and moderation, and patriotism, shall be heard and heeded by you. If you secede, your representatives will go out of Congress, and leave us at the mercy of a Black Republican Government. Mr. Lincoln will have no check. He can appoint his cabinet, and have it confirmed. The Congress will then be Republican, and he will be able to pass such laws as he may suggest. The Supreme Court will be powerless to protect us. We implore you to stand by us, and by our friends in the free States; and let us all, the bold, the true, and just men in the free and the slave States, with a united front, stand by each other, by our principles, by our rights, our equality, our honor, and by the Union under the Constitution. I believe this is the only way to save it; and we can do it."

The South Carolina convention met at Columbia on December 17, and unanimously passed a resolution of secession. Owing to an epidemic of small-pox in the capital, the convention adjourned to Charleston, where it assembled the next day in "Secession Hall." On December 20 a formal Ordinance of Secession was unanimously passed, and a Declaration of Causes therefor was adopted, among which was chiefly named the failure of the Northern States to fulfil their constitutional obligations in the matter of slavery, particularly the return of fugitives. This failure, the declaration said, absolved South Carolina, as a contracting party to the Union under the Constitution, from its obligations to the rest of the Union, and the State therefore had the right to secede from the contract, there being no common arbiter between the States.

The convention resolved that a commissioner be sent

South Carolina, but, unfortunately, she was not; but, circumstances being different, it was perhaps better that Virginia and all other border States remain quiescent for a time, to serve as guard against the North. The first drop of blood spilled on the soil of South Carolina would bring Virginia and every Southern State with them. By remaining in the Union for a time, she would not only prevent coercive legislation in Congress, but any attempt for our subjugation.

"There was no fear of Carolina remaining alone. She would soon be followed by other States. Virginia and half a dozen more were just as good and strong, and able to repel the enemy as if they had the whole of the slaveholding States to act with them. Even if California remained alone—not that he thought it probable, but supposing so—it was his conviction that she would be able to defend herself against any power brought against her."

Secession without waiting for the other Cotton States was decided upon.

The leading Federal officers in South Carolina resigned their positions. A bill calling a convention, with the distinct purpose of secession, passed the State Senate on the 9th of November, and the House on the 12th. December 6 was the day appointed for the election of delegates; the convention to meet on the 17th of that month. Whereupon, Gov. Hammond resigned his seat in the U. S. Senate, as his colleague, Mr. Chesnut, had already done.

The action of South Carolina met with quick response in most of the slave States, the various governors calling the legislatures in special session to act on the question of secession. Governor Samuel Houston [Tex.] was one, however, who refused to issue such a call, whereupon sixty of the legislators did so unconstitutionally, the governor weakly submitting to the usurpation, and shortly afterwards resigning his office. Governor Beriah Magoffin [Ky.] also refused to assemble the legislature to take action on the issue, and issued a public address in which he appealed to the other Southern States as follows:

"To South Carolina, and such other States as may wish to secede from the Union, I would say: The geography of this

to each slave State, with a copy of the secession ordinance, with a view to hasten coöperation on the part of those States; also, that three commissioners be sent to Washington, with a copy of the same, to be laid before the President, to treat for the delivery of the United States property in South Carolina over to the State, on the subject of the public debt, etc.

On January 9, 1861, the Mississippi legislature passed an Ordinance of Secession by 84 yeas to 15 nays. On the 10th the Florida convention took similar action by a vote of 62 yeas to 7 nays. On the 11th the Alabama convention voted for secession by 61 yeas to 39 nays.

On the 19th, after an animated debate in which Alexander H. Stephens and Herschel V. Johnson, who had been the candidate on the Douglas ticket for Vice-President, opposed the measure, the Georgia convention passed an Ordinance of Secession by 208 yeas to 89 nays. The opponents of the ordinance accepted the decision of the convention, and Mr. Stephens was chosen later as Vice-President of the Southern Confederacy.

On the 26th the Louisiana convention passed an Ordinance of Secession by 103 yeas to 17 nays. It was charged that there had been fraud in the election of delegates to the convention, and the claim was made that the Union men were in a majority throughout the State. Accordingly it was proposed to submit the ordinance to the vote of the people. This proposition was voted down by 84 yeas to 45 nays.

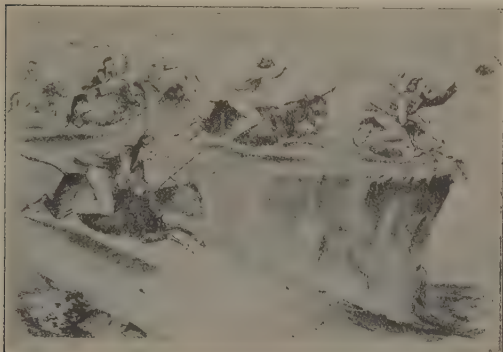
In Texas, a State convention, called by the legislature, which, as we have seen, had met in unconstitutional assembly, passed an Ordinance of Secession on February 1, by a vote of 166 yeas to 7 nays. This was submitted to a popular vote and was ratified by a large majority.

Arkansas, North Carolina, Virginia, and Missouri held conventions in which the Union men were in a majority, and the secession of these States was thus postponed. The later secession of Missouri was the work of persons unauthorized by the Confederacy, and, though recognized by the Confederacy, was not legally valid even according to the theory of secession.

The Tennessee and Kentucky legislatures, being strongly Unionist, refused to call conventions.

Gov. Thomas H. Hicks, of Maryland, refused to convene the legislature of his State on the subject.

The legislature of Delaware, when urged by a commissioner from Mississippi to pass an Ordinance of Secession, gave the proposition an "unqualified disapproval."



THE "SECESSION MOVEMENT"

From the collection of the New York Historical Society

While State after State was thus departing from the Union, President Buchanan made but the feeblest efforts to restrain them.

Shortly before the election of Lincoln, Winfield Scott, commanding general of the army, wrote to the Secretary of War, John B. Floyd, expressing the fear that the slave States would, before seceding, attempt to get possession of the nine Federal forts within their borders, and therefore declaring it necessary to have these forts "immediately so garrisoned as to make any attempt to take any one of them by surprise or *coup de main* ridiculous." No action was taken on his rec-

DEBATES IN THE SOUTH

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official capacity, they returned South, sending farewell letters to the President, "which," says Horace Greeley in his "American Conflict," "are scarcely average samples of diplomatic suavity."

The most important Federal property in South Carolina consisted of forts, on islands and sites ceded to it from the State. These forts were garrisoned by a small force of Federal troops under Major Robert Anderson, a Kentuckian who had been recently sent there to replace a Northern man, thus removing a possible cause of irritation in a high-strung community which as yet was only contemplating secession.

Fort Moultrie, being most convenient to the city, was mainly occupied by the troops. However, being the oldest of the fortifications, it was the weakest—indeed, it could not have resisted for a day bombardment from the shore. Accordingly, as affairs began to assume a threatening aspect, during the night of December 26, 1860, Major Anderson removed his entire command, with provisions, munitions, etc., to the stronger and more securely situated Fort Sumter. This removal the secessionists, relying on the assurances of John B. Floyd, Secretary of War, that no changes would be made in the garrison in Charleston harbor, charged to be a breach of faith on the part of the Federal Government. Said the Charleston *Courier*, on December 29:

"Major Robert Anderson, United States Army, has achieved the unenviable distinction of opening civil war between American citizens by an act of gross breach of faith."

Shortly after this the Federal arsenal at Charleston was seized by volunteers who were flocking to the city at the call of the State government. The custom house, post office, and lighthouse service were also appropriated without resistance, those in charge being ardent secessionists. The lights in the lighthouses were extinguished, and the buoys marking the intricate channels in the harbor were removed, in order to obstruct provisioning or reinforcing Fort Sumter by ships from the North.

ommendation, and, later, when events had shown the wisdom of his warning, he published the letter to exonerate himself from responsibility in the matter, thereby calling down upon his head the wrath of President Buchanan, and irreconcilably alienating the heads of the Administration and the army at the crucial time when their cooperation was supremely needed by the country.

The indecisive course of the President also had a disintegrating effect on his Cabinet, pleasing neither the Southerners nor Northerners who composed it. On December 10, 1860, Howell Cobb [Ga.] Secretary of the Treasury, resigned his office, alleging, as his excuse, the hopeless condition of the public funds. The President appointed in his place Philip F. Thomas [Md.] who resigned within a few days, John A. Dix [N. Y.] being appointed. On December 14, Lewis Cass [Mich.], Secretary of State, resigned because of the President's refusal to reinforce and provision the Federal garrison in Charleston harbor. He was replaced by Attorney-General Jeremiah S. Black [Pa.], who had long been Buchanan's closest friend and adviser, and Edwin M. Stanton [O.] was put in Black's vacated position of Attorney-General.

About the middle of December the President had sent Caleb Cushing [Mass.], a Buchanan-Breckinridge Democrat, and so likely to be *persona grata* to the secessionists, to Charleston to arrange that affairs should remain *in statu quo* during the remaining ten weeks of the Administration. Mr. Cushing returned almost at once, with the report that the secession leaders would make no promises, except upon the unconditional recognition of the independence of South Carolina.

On December 26, R. W. Barnwell, James L. Orr, and ex-Governor J. H. Adams, commissioners from South Carolina, arrived at Washington to negotiate a cession to the State of the Federal property within its limits. The President informed them that he could meet them only as citizens of the United States. After vainly attempting for nine days to secure recognition in their

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INDICTMENT OF SECRETARY FLOYD

Secretary Floyd asked the President to order Major Anderson back to Fort Moultrie, and, indeed, advised the removal of the entire garrison from Charleston harbor. The order being denied him, on December 29, he resigned his office, and the President appointed Joseph Holt [Ky.] in his stead. Secretary Floyd had, however, already rendered the secessionists all the help that it was in his power, his transfer of arms, especially heavy ordnance, from Northern to Southern and Far Western arsenals, which had been going on for some time, having been stopped by the President on a protest from citizens of Pittsburgh, near which city was situated the Alleghany Arsenal which Floyd was about to deplete. Secretary Floyd's resignation was probably hastened by an investigation into a defalcation in the Interior Department in which his own department was involved. This defalcation came to light on December 24, during the absence of the Secretary of the Interior, Jacob Thompson [Miss.], who, with the permission of the President had left his post to visit North Carolina in the capacity of a secession commissioner from his State. It was found that a clerk in the Interior Department had hypothecated \$870,000 in bonds held in trust for the Indian Bureau, in order to take up Secretary Floyd's acceptances of drafts on the empty treasury by a contracting firm engaged in the transportation of army supplies, which firm had requested payment in advance of service.

On December 30 the Grand Jury at Washington indicted ex-Secretary Floyd for malfeasance and for conspiracy to defraud the Government. He was, however, safely beyond the power of the Federal authorities, being engaged in the agitation to take his native State of Virginia out of the Union.

On January 8, 1861, Secretary Thompson resigned his office.

FIRING ON THE FLAG

On January 9, 1861, the steamer *Star of the West*, which had slipped out of New York harbor unannounced

with reinforcements and supplies for Fort Sumter on board, arrived at the bar of Charleston harbor. Floating the national flag, but with the troops under deck, she attempted to steam up the harbor to Fort Sumter. The secessionists, however, had received information of her purpose from one of their agents in the North, and fired on her from Fort Moultrie and a battery on Morris Island. Being struck by a shot, she put about and returned to New York.

On January 14, the South Carolina legislature resolved that "any attempt by the Federal Government to reinforce Fort Sumter will be regarded as an act of open hostility, and a declaration of war."

Col. Isaac W. Hayne [S. C.], as agent of Gov. Francis W. Pickens [S. C.] had come to Washington, on January 12; on the 16th he demanded the surrender of Fort Sumter as a pledge of non-intervention in the affairs of his State. It was, of course, refused.

Federal forts and arsenals were seized by State authority in Georgia, Alabama, Louisiana, and even North Carolina, before ordinances of secession had been passed by these States.

In Florida, soon after the ordinance was passed, Fort Barrancas and the Navy Yard at Pensacola were seized without resistance from the Federal commander, James Armstrong, who also ordered Lieutenant Adam J. Slemmer, in charge of Forts Pickens and McRae, to give up these places. The subordinate, however, refused to obey, and, retiring to Fort Pickens, the stronger of the two forts, held out against the enemy. Mr. Dix, Secretary of the Treasury, sent an agent to secure revenue cutters stationed at Mobile and New Orleans, but before his arrival they had been turned over (about the end of January) by their commanders to the State authorities. Secretary Dix, before he had been informed of the surrender, sent a telegram to his agent which became a rallying cry in the North: "If any person attempts to haul down the American flag, shoot him on the spot."

Toward the end of February, Brigadier-General David E. Twiggs [Ga.], commanding the Department

of Texas, turned over his entire army, fortifications, arms, etc., to Gen. Ben McCulloch, representing the authorities of Texas. It has been computed, by Southern as well as Northern historians (*e. g.*, E. Pollard in his "Southern History of the War," and Horace Greeley in his "American Conflict") that the South, at Lincoln's inauguration, had secured possession of Federal forts, cannon, etc., to the value of \$20,000,000; 150,000 Federal rifles, etc., of the latest and most approved patterns, and half of the regular army.

ORGANIZATION OF THE CONFEDERACY

On February 4, 1861, delegates from the seceded States, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, met at Montgomery, Ala. On the 8th the seven States represented were provisionally organized into "The Confederate States of America," and Jefferson Davis [Miss.] and Alexander H. Stephens [Ga.] were elected President and Vice-President respectively of the new Confederacy.

On February 14 a permanent constitution was adopted. It was substantially the same as the Federal Constitution except in the following particulars:

1. President and Vice-President to be chosen for six years; President ineligible for reelection while in office; he may remove cabinet officers, but no other functionaries, at his pleasure, without referring the matter, with his reasons, to the Senate.
2. Heads of executive departments to have seats in either House with privilege of discussing matters relating to their several departments.
3. No bounties nor duties on importations.
4. Citizens of one State may pass through another State or sojourn there with their slaves and other property; the right of property in such slaves not to be impaired thereby.
5. A slave escaping from one State into another to be delivered up on claim of the owner.
6. New territory may be acquired; in this slavery shall be recognized and protected by Congress and the territorial government.

INAUGURATION OF PRESIDENT DAVIS

On February 17 President Davis arrived at Montgomery, on a special train from Jackson, the capital of Mississippi, having delivered twenty-five speeches to enthusiastic crowds. In these he made such declarations as the following:

"It may be that we will be confronted by war, that the attempt will be made to blockade our ports, to starve us out; but they know little of the Southern heart, of Southern endurance. No amount of privation could force us to remain in a Union on unequal terms. England and France would not allow our great staple [cotton] to be dammed up within our present limits; the starving thousands in their midst would not allow it. We have nothing to apprehend from blockade. But, if they attempt invasion by land, *we must take the war out of our territory.* If war must come, *it must be upon Northern, and not upon Southern, soil.* In the meantime, if they are prepared to grant us peace, to recognize our equality, all is well.

"Your border States will gladly come into the Southern Confederacy within sixty days, as we will be their only friends. England will recognize us, and a glorious future is before us. The grass will grow in the Northern cities, where the pavements have been worn off by the tread of commerce. We will carry war where it is easy to advance—where food for the sword and torch await our armies in the densely populated cities; and, though they [the enemy] may come and spoil our crops, we can raise them as before; while they cannot rear the cities which took years of industry and millions of money to build."

On February 18 the President was inaugurated with imposing ceremonies. His Inaugural Address, says Horace Greeley, in his "American Conflict," was a temperate and carefully studied document. Assuming the right of secession as inherent in "the sovereign States now composing this Confederacy," to be exercised whenever, in their judgment, the compact by which they acceded to the Union "has been perverted from the purposes for which it was ordained, and ceased to answer the ends for which it was established," and that its exercise "merely asserted the right which the Declaration of Independence of 1776 defined to be

inalienable," he avers of their recent action that "it is by the abuse of language that their act has been denominated revolution." "They formed a new *alliance*," he continues, [ignoring their solemn compact in the Federal Constitution by which they had covenanted with each other that "No State shall enter into any treaty, *alliance, or confederation.*"] The Federal Government is termed by him "the *agent* through whom they



THE SOUTHERN CONFEDERACY A FACT!!

Acknowledged by a Mighty Prince and Faithful Ally

[The Prince to his Cabinet: "I am afraid in rascality they will beat us"]
From the collection of the New York Historical Society

communicated with foreign nations," which they have now "changed"—that is all. As they had cotton to sell, which the North, with nearly all other civilized countries, wished to buy, their policy was necessarily one of peace; and he argued that the old Union would inevitably and gladly, for cotton's sake, if for no other, cultivate peace with them.

There was an undertone in this Inaugural, however,

which plainly evinced that the author expected nothing of the sort. "If we may not hope to avoid war," says Mr. Davis, "we may at least expect that posterity will acquit us of having needlessly engaged in it. We have entered upon a career of independence, and it *must* be inflexibly pursued through *many years* of controversy with our late associates of the Northern States." Hence, he very properly called upon his Congress, in addition to the services of the militia, to provide for a navy, and "a well-instructed, disciplined army, more numerous than would usually be required as a *peace* establishment."

Mr. Davis carefully refrained from any other allusion to slavery, or the causes of estrangement between the North and the South, than the following:

"With a Constitution differing only from that of our fathers in so far as it is explanatory of their well-known intent, freed from sectional conflicts, which have interfered with the pursuit of the general welfare, it is not unreasonable to expect that the States from which we have parted may seek to unite their fortunes to ours, under the government which we have instituted. For this, your Constitution makes adequate provision; but beyond this, if I mistake not, the judgment and will of the people are that union with the States from which they have separated is neither practicable nor desirable. To increase the power, develop the resources, and promote the happiness of the Confederacy, it is requisite there should be so much homogeneity that the welfare of every portion should be the aim of the whole. Where this does not exist, antagonisms are engendered, which must and should result in separation."

SLAVERY THE CORNERSTONE OF THE CONFEDERACY

ALEXANDER H. STEPHENS

Mr. Stephens, the Vice-President of the "Confederacy," proved far less reticent and more candid. On his return from the convention or congress whereby the "Confederacy" had been cemented, and he chosen its Vice-President, he was required to address a vast assemblage at Savannah, and did so on March 21, in

elaborate exposition and defence of the new Confederate Constitution. After claiming that it preserved all that was dear and desirable of the Federal Constitution, while it embodied very essential improvements on that document, in its prohibition of protective duties and internal improvements by Confederate authority; in its proffer to cabinet ministers of seats in either House of Congress, with the right of debate; and in forbidding the reelection of a President while in office, Mr. Stephens proceeded:

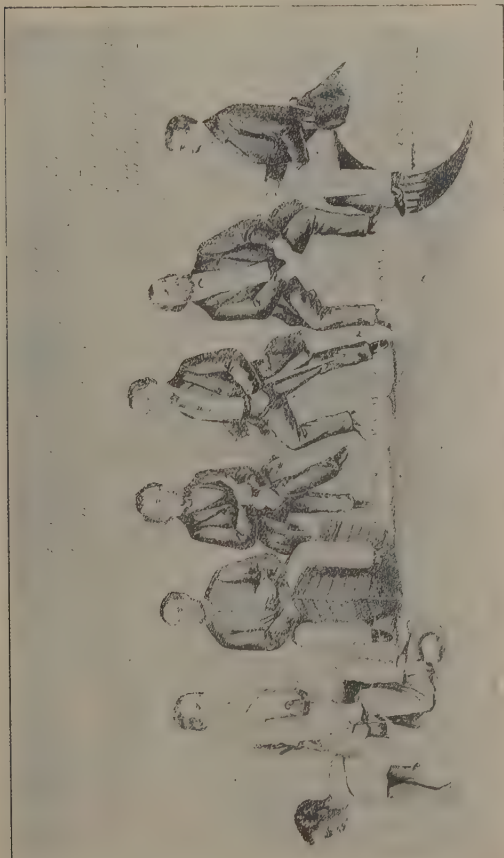
"But, not to be tedious in enumerating the numerous changes for the better, allow me to allude to one other—though last, not least: the new Constitution has put at rest *forever* all the agitating questions relating to our peculiar institution—African slavery as it exists among us—the *proper status* of the negro in our form of civilization. *This was the immediate cause of the late rupture and the present revolution.* Jefferson, in his forecast, had anticipated this, as the 'rock upon which the old Union would split.' He was right. What was conjecture with him is now a realized fact. But whether he comprehended the great truth upon which that rock stood and stands may be doubted. *The prevailing ideas entertained by him and most of the leading statesmen at the time of the formation of the old Constitution were that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically.* It was an evil they knew not well how to deal with; but the general opinion of the men of that day was that, somehow or other, in the order of Providence, the institution would be evanescent and pass away. This idea, though not incorporated in the Constitution, was the prevailing idea at the time. The Constitution, it is true, secured every essential guaranty to the institution while it should last; and hence no argument can be justly used against the constitutional guaranties thus secured, because of the common sentiment of the day. *Those ideas, however, were fundamentally wrong. They rested upon the assumption of the equality of races. This was an error. It was a sandy foundation; and the idea of a government built upon it—when the storm came and the wind blew, it fell.*

"Our new Government is founded upon exactly the opposite ideas; its foundations are laid, its corner-stone rests upon, the great truth that the negro is not equal to the white man; that

slavery, subordination to the superior race, is his natural and normal condition. [Applause.] *This, our new Government, is the first in the history of the world based upon this great physical, philosophical, and moral truth.* This truth has been slow in the process of its development, like all other truths in the various departments of science. It is so, even among us. Many who hear me, perhaps, can recollect well that this truth was not generally admitted, even within their day. The errors of the past generation still clung to many, so late as twenty years ago. Those at the North who still cling to these errors with a zeal above knowledge we justly denominate fanatics. All fanaticism springs from an aberration of the mind; from a defect in reasoning. It is a species of insanity. One of the most striking characteristics of insanity, in many instances, is forming correct conclusions from fancied or erroneous premises; so with the anti-slavery fanatics: their conclusions are right if their premises are. They assume that the negro is equal, and hence conclude that he is entitled to equal privileges and rights with the white man. If their premises were correct, their conclusions would be logical and just; but, their premises being wrong, their whole argument fails.

"In the conflict thus far, success has been on our side complete, throughout the length and breadth of the Confederate States. It is upon this, as I have stated, our social fabric is firmly planted; and I cannot permit myself to doubt the ultimate success of a full recognition of this principle throughout the civilized and enlightened world.

"Ours is the first Government ever instituted upon principles in strict conformity with nature, and the ordination of Providence, in furnishing the materials of human society. Many governments have been founded upon the principle of enslaving certain classes; but the classes thus enslaved were of the same race, and their enslavement in violation of the laws of nature. *Our system commits no such violation of nature's laws.* The negro, by nature, or by the curse against Canaan, is fitted for that condition which he occupies in our system. The architect, in the construction of buildings, lays the foundation with the proper material—the granite—then comes the brick or the marble. The substratum of *our society* is made of the material fitted by nature for it; and by experience we know that it is the best, not only for the superior, but for the inferior race, that it should be so. It is, indeed, in conformity with the Creator. *It is not for us to inquire into the wisdom of His ordinances, or to question them.* For His own purposes, He has made one



THE DISUNITED STATES
Or the Southern Confederacy
From the Collection of the New York Historical Society

race to differ from another, as He has made 'one star to differ from another in glory.'

"The great objects of humanity are best attained when conformed to His laws and decrees, in the formation of governments as well as in all things else. Our Confederacy is founded upon principles in strict conformity with these laws. This stone, which was rejected by the first builders, 'is become the chief stone of the corner' in our new edifice. [Applause.]

"I have been asked, 'What of the future?' It has been apprehended by some that we would have arrayed against us the civilized world. I care not who or how many they may be; when we stand upon the eternal principles of truth, we are obliged to and must triumph." [Immense applause.]

With regard to future accessions to the Confederacy, Mr. Stephens said:

"Our growth by accessions from other States will depend greatly upon whether we present to the world, as I trust we shall, a better government than that to which they belong. If we do this, North Carolina, Tennessee, and Arkansas cannot hesitate long; neither can Virginia, Kentucky, and Missouri. They will necessarily gravitate to us by an imperious law. We made ample provision in our Constitution for the admission of other States. It is more guarded—and wisely so, I think—that the old Constitution on the same subject; but not too guarded to receive them so fast as it may be proper. Looking to the distant future—and perhaps not very distant either—it is not beyond the range of possibility, and even probability, that all the great States of the Northwest shall gravitate this way, as well as Tennessee, Kentucky, Missouri, Arkansas, etc. Should they do so, our doors are wide enough to receive them; but not until they are ready to assimilate with us in principle.

"The process of disintegration in the old Union may be expected to go on with almost absolute certainty. We are now the nucleus of a growing power, which, if we are true to ourselves, our destiny, and our high mission, will become the controlling power on this continent. To what extent accessions will go on, in the process of time, or where they will end, the future will determine. So far as it concerns States of the old Union, they will be upon no such principle of reconstruction as is now spoken of, but upon reorganization and new assimilation." [Loud applause.]

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hostility between different sections of the country, instead of the "domestic tranquillity" which the Constitution was meant to insure, will not all the States be absolved from their Federal obligations? Is any portion of the people bound to contribute their money or their blood to carry on a contest like that?

"The right of the general Government to preserve itself in its whole constitutional vigor, by repelling a direct and positive aggression upon its property or its officers, cannot be denied. But this is a totally different thing from an offensive war to punish the people for the political misdeeds of State governments, or to prevent a threatened violation of the Constitution, or to enforce an acknowledgment that the Government of the United States is supreme. The States are colleagues of one another; and, if some of them should conquer the rest and hold them as subjugated provinces, it would totally destroy the whole theory upon which they are now connected.

"If this view of the subject be as correct as I think it is, then the Union must utterly perish at the moment when Congress shall arm one part of the people against another, for any purpose beyond that of merely protecting the general Government in the exercise of its proper constitutional functions."

The President also sought the advice of Senator Jefferson Davis [Miss.] in preparing his message. According to Davis' testimony (in his "Rise and Fall of the Confederate Government"—Vol. I, p. 59) Buchanan read to him the rough draft of the document, and accepted all the modifications which he suggested. "The message," continues Davis, "was, however, somewhat changed, and, with great deference to the wisdom and statesmanship of the author, I must say that, in my judgment, the last alterations were unfortunate."

Congress assembled on December 3, 1860, the Senators from South Carolina being absent. The last annual message of President Buchanan began with a discussion of the great crisis before the country, which followed the argument of the Attorney-General.

SECESSION IS REVOLUTION

LAST ANNUAL MESSAGE OF PRESIDENT BUCHANAN

Throughout the year since our last meeting, the country has been eminently prosperous in all its material interests. The

CHAPTER X

COERCION OF SECEDED STATES: CONSTITUTIONAL OR UNCONSTITUTIONAL?

The President Secures a Legal Opinion on the Crisis from Attorney-General Jeremiah S. Black—Black Reports That "Coercion Is Unconstitutional"—Last Annual Message of President Buchanan: "Secession Is Revolution"—Debate in the Senate on the Threatened Secession of South Carolina: Thomas L. Cushing [N. C.], John J. Crittenden [Ky.], Joseph Lane [Ore.], John P. Hale [N. H.], Albert G. Brown [Miss.], Alfred Iverson [Ga.], Louis T. Wigfall [Tex.], Willard Saulsbury [Del.]—London Times on the President's Message—Speech of Senator Stephen A. Douglas [Ill.] on "Federal Property Interest in the Seceded States."

ON November 17, 1860, President Buchanan, who was preparing his last annual message to Congress, asked his Attorney-General, Jeremiah S. Black, for an opinion upon the legal status of the situation. Mr. Black returned the following report:

COERCION UNCONSTITUTIONAL

OPINION ON SECESSION BY ATTORNEY-GENERAL BLACK

Mr. Black gave it as his opinion that, where owing to resignations there were no Federal judges in a State to issue judicial process, nor officers to execute it, the use of Federal troops would be illegal, since these were intended to aid the courts and marshals, not to replace them. He, therefore, concluded:

"If it be true that war cannot be declared, nor a system of general hostilities carried on, by the central Government against a State, then it seems to follow that an attempt to do so would be *ipso facto* an expulsion of such State from the Union. Being treated as an alien and an enemy, she would be compelled to act accordingly. And, if Congress shall break up the present Union by unconstitutionally putting strife, and enmity, and armed

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general health has been excellent, our harvests have been abundant, and plenty smiles throughout the land. Our commerce and manufactures have been prosecuted with energy and industry, and have yielded fair and ample returns. In short, no nation in the tide of time has ever presented a spectacle of greater material prosperity than we have done until within a very recent period.

Why is it, then, that discontent now so extensively prevails, and the Union of the States, which is the source of all these blessings, is threatened with destruction? [The long-continued and intemperate interference of the Northern people with the question of slavery in the Southern States has at length produced its natural effects. The different sections of the Union are now arrayed against each other, and the time has arrived, so much dreaded by the Father of his Country, when hostile geographical parties have been formed. I have long foreseen and often forewarned my countrymen of the now impending danger. This does not proceed solely from the claim on the part of Congress or the territorial legislatures to exclude slavery from the Territories, or from the efforts of different States to defeat the execution of the Fugitive Slave Law. All or any of these evils might have been endured by the South without danger to the Union—as others have been—in the hope that time and reflection might apply the remedy. The immediate peril arises, not so much from these causes, as from the fact that the incessant and violent agitation of the slavery question throughout the North for the last quarter of a century has at length produced its malign influence on the slaves, and inspired them with vague notions of freedom. Hence a sense of security no longer exists around the family altar. This feeling of peace at home has given place to apprehensions of servile insurrection. Many a matron throughout the South retires at night in dread of what may befall herself and her children before the morning. Should this apprehension of domestic danger, whether real or imaginary, extend and intensify itself until it shall pervade the masses of the Southern people, then disunion will become inevitable. Self-preservation is the first law of nature, and has been implanted in the heart of man by his Creator for the wisest purpose; and no political union, however fraught with blessings and benefits in all other respects, can long continue, if the necessary consequence be to render the homes and firesides of nearly half the parties to it habitually and hopelessly insecure. Sooner or later the bonds of such a union must be severed. It is my conviction that this fatal period has not yet arrived; and my prayer to God

is that He will preserve the Constitution and the Union throughout all generations.

But let us take warning in time, and remove the cause of danger. It cannot be denied that, for five and twenty years, the agitation at the North against slavery in the South has been incessant. In 1835 pictorial handbills and inflammatory appeals were circulated extensively throughout the South, of a character to excite the passions of the slaves; and, in the language of General Jackson, "to stimulate them to insurrection, and produce all the horrors of a servile war." This agitation has ever since been continued by the public press, by the proceedings of State and county conventions, and by abolition sermons and lectures. The time of Congress has been occupied in violent speeches on this never-ending subject; and appeals in pamphlet and other forms, indorsed by distinguished names, have been sent forth from this central point, and spread broadcast over the Union.

How easy would it be for the American people to settle the slavery question forever, and to restore peace and harmony to this distracted country!

They, and they alone, can do it. All that is necessary to accomplish the object, and all for which the slave States have ever contended, is to be let alone, and permitted to manage their domestic institutions in their own way. As sovereign States, they, and they alone, are responsible before God and the world for the slavery existing among them. For this, the people of the North are not more responsible, and have no more right to interfere, than with similar institutions in Russia or in Brazil. Upon their good sense and patriotic forbearance I confess I still greatly rely. Without their aid, it is beyond the power of any President, no matter what may be his own political proclivities, to restore peace and harmony among the States. Wisely limited and restrained as is his power, under our Constitution and laws, he alone can accomplish but little, for good or for evil, on such a momentous question.

And this brings me to observe that the election of any one of our fellow-citizens to the office of President does not of itself afford just cause for dissolving the Union. This is more especially true if his election has been effected by a mere plurality, and not a majority, of the people, and has resulted from transient and temporary causes, which may probably never again occur. In order to justify a resort to revolutionary resistance, the Federal Government must be guilty of a "deliberate, palpable, and dangerous exercise" of powers not granted by the Constitution. The late presidential election, however, has been held

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tribunal to popular assemblies would, if they could, invest a territorial legislature with power to annul the sacred rights of property. This power Congress is expressly forbidden by the Federal Constitution to exercise. Were it otherwise, then indeed would the equality of the States in the Territories be destroyed, and the rights of property in slaves would depend, not upon the guaranties of the Constitution, but upon the shifting majorities of an irresponsible territorial legislature. Such a doctrine, from its intrinsic unsoundness, cannot long influence any considerable portion of our people; much less can it afford a good reason for a dissolution of the Union.

The most palpable violations of constitutional duty which have yet been committed consist in the acts of different State legislatures to defeat the execution of the Fugitive Slave Law. It ought to be remembered, however, that for these acts neither Congress nor any President can justly be held responsible. The validity of this law has been established over and over again by the Supreme Court of the United States, with perfect unanimity. Here, then, a clear case is presented, in which it will be the duty of the next President, as it has been my own, to act with vigor in executing this supreme law against the conflicting enactments of State legislatures. Should he fail in the performance of this high duty, he will then have manifested a disregard of the Constitution and laws, to the great injury of the people of nearly one-half of the States of the Union. But are we to presume in advance that he will thus violate his duty? This would be at war with every principle of justice and of Christian charity. Let us wait for the overt act. Let us trust that the State legislatures will repeal their unconstitutional and obnoxious enactments. Unless this shall be done without unnecessary delay, it is impossible for any human power to save the Union.

The Southern States, standing on the basis of the Constitution, have a right to demand this act of justice from the States of the North. Should it be refused, then the Constitution, to which all the States are parties, will have been willfully violated by one portion of them in a provision essential to the domestic security and happiness of the remainder. In that event, the injured States, after having first used all peaceful and constitutional means to obtain redress, would be justified in revolutionary resistance to the Government of the Union.

I have purposely confined my remarks to revolutionary resistance, because it has been claimed within the last few years that any State, whenever this shall be its sovereign will and pleasure, may secede from the Union, in accordance with the

in strict conformity with its express provisions. How, then, can the result justify a revolution to destroy this very Constitution? Reason, justice, a regard for the Constitution, all require that we shall wait for some overt and dangerous act on the part of the President-elect before resorting to such a remedy.

It is said, however, that the antecedents of the President-elect have been sufficient to justify the fears of the South that he will attempt to invade their constitutional rights. But are such apprehensions of contingent danger in the future sufficient to justify the immediate destruction of the noblest system of government ever devised by mortals? From the very nature of his office, and its high responsibilities, he must necessarily be conservative. The stern duty of administering the vast and complicated concerns of this Government affords in itself a guaranty that he will not attempt any violation of a clear constitutional right. After all, he is no more than the chief executive officer of the Government. His province is not to make, but to execute the laws; and it is a remarkable fact in our history that, notwithstanding the repeated efforts of the anti-slavery party, no single act has ever passed Congress, unless we may possibly except the Missouri compromise, impairing, in the slightest degree, the rights of the South to their property in slaves. And it may also be observed, judging from present indications, that no probability exists of the passage of such an act by a majority of both Houses, either in the present or the next Congress. Surely, under these circumstances, we ought to be restrained from present action by the precept of Him who spake as never man spake, that "sufficient unto the day is the evil thereof." The day of evil may never come, unless we shall rashly bring it upon ourselves.

It is alleged as one cause for immediate secession that to the Southern States are denied equal rights with the other States in the common Territories. But by what authority are these denied? Not by Congress, which has never passed, and I believe never will pass, any act to exclude slavery from these Territories; and certainly not by the Supreme Court, which has solemnly decided that slaves are property, and, like all other property, their owners have a right to take them into the common Territories, and hold them there under the protection of the Constitution. Yet such has been the factious temper of the times that the correctness of this decision has been extensively impugned before the people, and the question has given rise to angry political conflicts throughout the country. Those who have appealed from this judgment of our highest constitutional

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Constitution, and without any violation of the constitutional rights of the other members of the Confederacy; that, as each became parties to the Union by the vote of its own people assembled in convention, so any one of them may retire from the Union in a similar manner by the vote of such a convention.

In order to justify secession as a constitutional remedy, it must be on the principle that the Federal Government is a mere voluntary association of States, to be dissolved at pleasure by any one of the contracting parties. If this be so, the Confederacy is a rope of sand, to be penetrated and dissolved by the first adverse wave of public opinion in any of the States. In this manner our thirty-three States may resolve themselves into as many petty, jarring, and hostile republics, each one retiring from the Union, without responsibility, whenever any sudden excitement might impel them to such a course. By this process, a Union might be entirely broken into fragments in a few weeks, which cost our forefathers many years of toil, privation, and blood to establish.

Such a principle is wholly inconsistent with the history as well as the character of the Federal Constitution. Its opponents contended that it conferred powers upon the Federal Government dangerous to the rights of the States; while its advocates maintained that under a fair construction of the instrument there was no foundation for such apprehensions. In that mighty struggle between the first intellects of this or any other country, it never occurred to any individual, either among its opponents or advocates, to assert, or even to intimate, that their efforts were all vain labor, because the moment that any State felt herself aggrieved she might secede from the Union. What a crushing argument would this have proved against those who dreaded that the rights of the States would be endangered by the Constitution! The truth is that it was not until many years after the origin of the Federal Government that such a proposition was first advanced. It was then met and refuted by the conclusive arguments of President Jackson.

It is not pretended that any clause in the Constitution gives countenance to such a theory. It is altogether founded upon inference, not from any language contained in the instrument itself, but from the sovereign character of the several States by which it was ratified. But is it beyond the power of a State, like an individual, to yield a portion of its sovereign rights to secure the remainder? In the language of Mr. Madison, who has been called the father of the Constitution, "it was formed by the States—that is, by the people in each of the States, acting

in their highest sovereign capacity; and formed consequently by the same authority which formed the State constitutions."

The Union was intended to be perpetual, and not to be annulled at the pleasure of any one of the contracting parties. The old Articles of Confederation were entitled "Articles of Confederation and Perpetual Union between the States"; and by the thirteenth article it is expressly declared that "the articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual." The preamble to the Constitution of the United States, having express reference to the Articles of Confederation, recites that it was established "in order to form a more perfect union." And yet it is contended that this "more perfect union" does not include the essential attribute of perpetuity.

But that the Union was designed to be perpetual appears conclusively from the nature and extent of the powers conferred by the Constitution on the Federal Government. These powers embrace the very highest attributes of national sovereignty. They place both the sword and the purse under its control.

But the Constitution has not only conferred these high powers upon Congress, but it has adopted effectual means to restrain the States from interfering with their exercise.

In order still further to secure the uninterrupted exercise of these high powers against State interposition, it is provided "that this Constitution and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

The solemn sanction of religion has been superadded to the obligations of official duty, and all Senators and Representatives of the United States, all members of State legislatures, and all executive and judicial officers, "both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

In short, the Government created by the Constitution, and deriving its authority from the sovereign people of each of the several States, has precisely the same right to exercise its power over the people of all these States, in the enumerated cases, that each one of them possesses over subjects not delegated to the United States, but "reserved to the States, respectively, or to the people."

To the extent of the delegated powers, the Constitution of

the United States is as much a part of the constitution of each State, and is as binding upon its people, as though it had been textually inserted therein.

This Government, therefore, is a great and powerful Government, invested with all the attributes of sovereignty over the special subjects to which its authority extends. Its framers never intended to implant in its bosom the seeds of its own destruction, nor were they at its creation guilty of the absurdity of providing for its own dissolution. It was not intended by its framers to be the baseless fabric of a vision which, at the touch of the enchanter, would vanish into thin air; but a substantial and mighty fabric, capable of resisting the slow decay of time and of defying the storms of ages. Indeed, well may the jealous patriots of that day have indulged fears that a Government of such high powers might violate the reserved rights of the States; and wisely did they adopt the rule of a strict construction of these powers to prevent the danger! But they did not fear, nor had they any reason to imagine, that the Constitution would ever be so interpreted as to enable any State, by her own act, and without the consent of her sister States, to discharge her people from all or any of their Federal obligations.

It may be asked, then, are the people of the States without redress against the tyranny and oppression of the Federal Government? By no means. The right of resistance on the part of the governed against the oppression of their governments cannot be denied. It exists independently of all constitutions, and has been exercised at all periods of the world's history. It is embodied in strong and express language in our own Declaration of Independence. But the distinction must ever be observed, that this is revolution against an established government, and not a voluntary secession from it by virtue of an inherent constitutional right. In short, let us look the danger fairly in the face: Secession is neither more nor less than revolution. It may or it may not be a justifiable revolution, but still it is revolution.

What, in the meantime, is the responsibility and true position of the Executive? He is bound by solemn oath before God and the country "to take care that the laws be faithfully executed," and from this obligation he cannot be absolved by any human power. But what if the performance of this duty, in whole or in part, has been rendered impracticable by events over which he could have exercised no control? Such, at the present moment, is the case throughout the State of South Carolina, so far as the laws of the United States to secure the administra-

tion of justice by means of the Federal judiciary are concerned. All the federal officers within its limits, through whose agency alone these laws can be carried into execution, have already resigned. In fact, the whole machinery of the Federal Government, necessary for the distribution of remedial justice among the people, has been demolished; and it would be difficult, if not impossible, to replace it.

The only acts of Congress on the statute book bearing upon this subject are those of the 28th February, 1795, and 3d March, 1807. These authorize the President, after he shall have ascertained that the marshal, with his *posse comitatus*, is unable to execute civil or criminal process in any particular case, to call forth the militia and employ the army and navy to aid him in performing this service; having first, by proclamation, commanded the insurgents "to disperse and retire peaceably to their respective abodes, within a limited time." This duty cannot by possibility be performed in a State where no judicial authority exists to issue process, and where there is no marshal to execute it, and where, even if there were such an officer, the entire population would constitute one solid combination to resist him.

The bare enumeration of these provisions proves how inadequate they are without further legislation to overcome a united opposition in a single State, not to speak of other States who may place themselves in a similar attitude. Congress alone has power to decide whether the present laws can or cannot be amended so as to carry out more effectually the objects of the Constitution.

The same insuperable obstacles do not lie in the way of executing the laws for the collection of the customs. The revenue still continues to be collected, as heretofore, at the custom-house in Charleston; and should the collector unfortunately resign, a successor may be appointed to perform this duty.

Then, in regard to the property of the United States in South Carolina. This has been purchased for a fair equivalent, "by the consent of the legislature of the State," "for the erection of forts, magazines, arsenals," etc., and over these the authority "to exercise exclusive legislation" has been expressly granted by the Constitution to Congress. It is not believed that any attempt will be made to expel the United States from this property by force; but, if in this I should prove to be mistaken, the officer in command of the forts has received orders to act strictly on the defensive. In such a contingency, the responsibility for consequences would rightfully rest upon the heads of the assailants.

Apart from the execution of the laws, so far as this may be practicable, the Executive has no authority to decide what shall be the relations between the Federal Government and South Carolina. He possesses no power to change the relations heretofore existing between them, much less to acknowledge the independence of that State. Any attempt to do this would, on his part, be a naked act of usurpation. It is, therefore, my duty to submit to Congress the whole question in all its bearings. The course of events is so rapidly hastening forward that the emergency may soon arise when you may be called upon to decide the momentous question whether you possess the power, by force of arms, to compel a State to remain in the Union. I should feel myself recreant to my duty were I not to express an opinion on this important subject.

The question fairly stated is: Has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State. After much serious reflection I have arrived at the conclusion that no such power has been delegated to Congress or to any other department of the Federal Government. It is manifest, upon an inspection of the Constitution, that this is not among the specific and enumerated powers granted to Congress; and it is equally apparent that its exercise is not "necessary and proper for carrying into execution" any one of these powers. So far from this power having been delegated to Congress, it was expressly refused by the convention which framed the Constitution.

It appears, from the proceedings of that body, that on the 31st May, 1787, the clause "authorizing an exertion of the force of the whole against a delinquent State" came up for consideration. Mr. Madison opposed it in a brief but powerful speech, from which I shall extract but a single sentence. He observed: "The use of force against a State would look more like a declaration of war than an infliction of punishment; and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound." Upon his motion the clause was unanimously postponed, and was never, I believe, again presented. Soon afterward, on the 8th June, 1787, when incidentally adverting to the subject, he said: "Any government for the United States, formed on the supposed practicability of using force against the unconstitutional proceedings of the States, would prove as visionary and fallacious as

the government of Congress," evidently meaning the then existing Congress of the old Confederacy.

Without descending to particulars, it may be safely asserted that the power to make war against a State is at variance with the whole spirit and intent of the Constitution. Suppose such a war should result in the conquest of a State; how are we to govern it afterward? Shall we hold it as a province, and govern it by despotic power? In the nature of things we could not, by physical force, control the will of the people, and compel them to elect Senators and Representatives to Congress, and to perform all the other duties depending upon their own volition, and required from the free citizens of a free State as a constituent member of the Confederacy.

But, if we possessed this power, would it be wise to exercise it under existing circumstances? The object would doubtless be to preserve the Union. War would not only present the most effectual means of destroying it, but would banish all hope of its peaceable reconstruction. Besides, in the fraternal conflict a vast amount of blood and treasure would be expended, rendering future reconciliation between the States impossible. In the meantime, who can foretell what would be the sufferings and privations of the people during its existence?

The fact is that our Union rests upon public opinion, and can never be cemented by the blood of its citizens shed in civil war. If it cannot live in the affections of the people, it must one day perish. Congress possess many means of preserving it by conciliation; but the sword was not placed in their hand to preserve it by force.

But may I be permitted solemnly to invoke my countrymen to pause and deliberate, before they determine to destroy this, the grandest temple which has ever been dedicated to human freedom since the world began! It has been consecrated by the blood of our fathers, by the glories of the past, and by the hopes of the future. The Union has already made us the most prosperous, and ere long will, if preserved, render us the most powerful, nation on the face of the earth. In every foreign region of the globe the title of American citizen is held in the highest respect, and, when pronounced in a foreign land, it causes the hearts of our countrymen to swell with honest pride. Surely when we reach the brink of the yawning abyss, we shall recoil with horror from the last fatal plunge. By such a dread catastrophe the hopes of the friends of freedom throughout the world would be destroyed, and a long night of leaden despotism would enshroud the nations. Our example for more than eighty years

States, and what more ought to be required? The answer is that a very large proportion of the people of the United States still contest the correctness of this decision, and never will cease from agitation and admit its binding force until clearly established by the people of the several States in their sovereign character. Such an explanatory amendment would, it is believed, forever terminate the existing dissensions and restore peace and harmony among the States.

It ought not to be doubted that such an appeal to the arbitrament established by the Constitution itself would be received with favor by all the States of the Confederacy. In any event it ought to be tried in a spirit of conciliation before any of these States shall separate themselves from the Union.

The President's message was debated at length in both the Senate and the House.

THE THREATENED SECESSION OF SOUTH CAROLINA

SENATE, DECEMBER 4-5, 1860

Thomas L. Clingman [N. C.] objected to that part of the message which referred to President-elect Lincoln. He asserted that Lincoln had been elected "because he was known to be a dangerous man," having avowed the principle known as "the irrepressible conflict." He would undoubtedly adopt a drastic policy in regard to slavery. Already it was proposed to repeal the Fugitive Slave Law—indeed, the Northern legislatures had rendered it a practical nullity.

The President has said that there ought to be new constitutional guaranties. I do not see how any Southern man can make propositions. We have petitioned and remonstrated for the last ten years, and to no purpose. In my judgment, unless the decided constitutional guaranties are obtained at an early day, it will be best for all sections that a peaceable division of the public property should take place.

I know there are intimations that suffering will fall upon us in the South if we secede. My people are not terrified by any such considerations. The Southern States have more territory than all the colonies had when they seceded from Great Britain, and a better territory. The Southern States have, too, at this

would not only be lost, but it would be quoted as a conclusive proof that man is unfit for self-government.

It is not every wrong—nay, it is not every grievous wrong—which can justify a resort to such a fearful alternative. This ought to be the last desperate remedy of a despairing people, after every other constitutional means of conciliation had been exhausted. We should reflect that under this free Government there is an incessant ebb and flow in public opinion. The slavery question, like everything human, will have its day. I firmly believe that it has already reached and passed the culminating point. But if, in the midst of the existing excitement, the Union shall perish, the evil may then become irreparable. Congress can contribute much to avert it by proposing and recommending to the legislatures of the several States the remedy for existing evils, which the Constitution has itself provided for its own preservation in the fifth article providing for its own amendment. This has been tried at different critical periods of our history, and always with eminent success.

Here the President enumerated instances of such amendment.

This is the course which I earnestly recommend in order to obtain an "explanatory amendment" of the Constitution on the subject of slavery. This might originate with Congress or the State legislatures, as may be deemed most advisable to attain the object.

The explanatory amendment might be confined to the final settlement of the true construction of the Constitution on three special points:

1. An express recognition of the right of property in slaves in the States where it now exists or may hereafter exist.
2. The duty of protecting this right in all the common Territories throughout their territorial existence, and until they shall be admitted as States into the Union, with or without slavery, as their constitutions may prescribe.
3. A like recognition of the right of the master to have his slave, who has escaped from one State to another, restored and "delivered up" to him, and of the validity of the Fugitive Slave Law enacted for this purpose, together with a declaration that all State laws impairing or defeating this right are violations of the Constitution, and are consequently null and void.

It may be objected that this construction of the Constitution has already been settled by the Supreme Court of the United

day, four times the population the colonies had when they seceded from Great Britain. Their exports to the North and to foreign countries were, last year, more than three hundred million dollars; and a duty of ten per cent. upon the same amount of imports would give \$30,000,000 of revenue—twice as much as General Jackson's Administration spent in its first year. Everybody can see, too, how the bringing in of \$300,000,000 of imports into the Southern ports would enliven business in our seaboard towns. I have seen with some satisfaction, also, Mr. President, that the war made upon us has benefited certain branches of industry in my State. There are manufacturing establishments in North Carolina, the proprietors of which tell me that they are making fifty per cent. annually on their whole capital, and yet cannot supply one-tenth of the demands for their productions. The result of only ten per cent. duties in excluding products from abroad would give life and impetus to mechanical and manufacturing industry throughout the entire South. Our people understand these things, and they are not afraid of results if forced to declare independence. Indeed, I do not see why Northern Republicans should wish to continue a connection with us upon any terms. They say that our institutions are a disgrace to the political family, which they intend to remove. They declare African slavery to be a crime, and that it must be abolished. If we and they separate, their consciences will be freed from all responsibility for this sin. They want high tariffs likewise. They may put on five hundred per cent., if they choose, upon their own imports, and nobody on our side will complain. They may spend all the money they raise on railroads, or opening harbors, or anything on earth they desire, without interference from us; and it does seem to me that if they are sincere in their views they ought to welcome a separation.

I confess, Mr. President, that I do not know whether or not I understand the views of the message exactly on some points. There is something said in it about collecting the revenue. I fully agree with the President that there is no power or right in this Government to attempt to coerce a State back into the Union; but if the State does secede, and thus becomes a foreign State, it seems to me equally clear that you have no right to collect taxes in it. I do not know, sir, whether I am given to understand from the message that there is a purpose to continue the collection of duties in any contingency; but if that be the policy I have no doubt some collision may occur. I deprecate it and hope there will be none. If there is to be a separation either of a part or the whole of the slaveholding States, I think

it better for all parties that it should be done peaceably and quietly.

Now, as to this idea of gentlemen waiting for overt acts. I take it for granted that Lincoln would resort to no overt acts in the first instance. I cannot conceive that he would have the folly to do so. I presume he would be conservative in his declarations, and I should attach just as much weight to them as I would to the soothing words and manner of a man who wanted to mount a wild horse, and who would not, until he was safely in the saddle, apply whip or spur. I take it for granted, when he comes in, he will make things as quiet as he can make them at first. I presume the policy of the party would be to endeavor to divide the South. They complain that Abolition documents are not circulated there. They wish to have an opportunity, by circulating such things as Helper's book, of arraying the non-slaveholders and poor men against the wealthy. I have no doubt, also, they would run off slaves faster from the border States, and perhaps oblige the slave owners to send them down farther South, so as to make some of those States free States; and then, when the South was divided to some extent, the overt acts would come, and we should have, perhaps, a hard struggle to escape destruction.

Therefore, I maintain that our true policy is to meet this issue *in limine*,¹ and I hope it will be done. If we can maintain our personal safety, let us hold onto the present Government; if not, we must take care of ourselves at all hazards.

John J. Crittenden [Ky.] deprecated the disunion sentiments of the Senator from North Carolina, and would search out some means for the reconciliation of the opposing sections. He did not agree that there is no power in the President to preserve the Union.

To say that no State has a right to secede, that it is a wrong to the Union, and yet that the Union has no right to interpose any obstacles to its secession, is altogether contradictory.

SENATOR CLINGMAN.—Mr. President, it seems to me that ignoring these evils is like talking of health when a man is very ill. You must apply remedies that will reach the disease. One of the wisest remarks that Mr. Calhoun ever made was that the Union could not be saved by eulogies upon it. We have had eulogies upon the Union until they have been productive of mischief. The Abolitionists say that "the South cannot be

¹ On the threshold.

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and, if I understand it, it is this: South Carolina has just cause for seceding from the Union; that is the first proposition. The second is that she has no right to secede. The third is that we have no right to prevent her from seceding. That is the President's message substantially. He goes on to represent this as a great and powerful country, and that no State has a right to secede from it; but the power of the country, if I understand the President, consists in what Dickens makes the English constitution to be—a power to do nothing at all.

Now, sir, I think it was incumbent on the President of the United States to point out definitely and recommend to Congress some rule of action, and to tell us what he recommended us to do. But, in my judgment, he has entirely avoided it. He has failed to look the thing in the face. He has acted like the ostrich, which hides her head, and thereby thinks to escape danger. Sir, the only way to escape danger is to look it in the face.

I think we might as well look this matter right clearly in the face. I think that this state of affairs looks to one of two things: it looks to absolute submission, not on the part of our Southern friends and the Southern States, but of the North, to the abandonment of their position—it looks to a surrender of that popular sentiment which has been uttered through the constituted forms of the ballot box; or it looks to open war. We need not shut our eyes to the fact. It means war, and it means nothing else; and the State which has put herself in the attitude of secession so looks upon it. She has asked no counsel, she has considered it as a settled question, and she has armed herself. As I understand the aspect of affairs, it looks to that, and it looks to nothing else except unconditional submission on the part of the majority.

Now, I avow here—I do not know whether or not I shall be sustained by those who usually act with me—if the issue which is presented is that the constitutional will of the public opinion of this country, expressed through the forms of the Constitution, will not be submitted to, and war is the alternative, let it come in any form or in any shape. The Union is dissolved and it cannot be held together as a Union, if that is the alternative upon which we go into an election. If it is preannounced and determined that the voice of the majority expressed through the regular and constituted forms of the Constitution will not be submitted to, then, sir, this is not a union of equals; it is a union of a dictatorial oligarchy on the one side, and a herd of slaves and cowards on the other.

ALBERT G. BROWN [Miss.].—All we ask is that we be allowed

kicked out of the Union," and Southern men say amen to it. I do not refer to the Senator; but I mean that the tone and language in the South have been calculated to encourage the Abolitionists, and render them only the more insolent and aggressive. It was therefore I frankly made the declarations already uttered. I will join the honorable Senator, in good faith, in an effort to avert the evil that threatens us, if any fair prospect should be presented. Failing in this, I will stand by my State in any effort she may find necessary to protect her interests and maintain her honor.

Joseph Lane [Ore.] asserted that the election of Lincoln was against the spirit of the Constitution.

It never was contemplated by those who made the Constitution that a sectional party, without an electoral ticket in nearly one-half the States of the Union, upon a platform conflicting with the Constitution and with the rights of the States in one-half of our country, should elect a President. My opinion to-day is, if our fathers in forming that instrument had provided any means by which the legality of this election could be tested, before the Supreme Court if you please, they would in this case decide in equity that the election of Mr. Lincoln conflicts with the Constitution of the United States, and is consequently void.

JOHN P. HALE [N. H.].—No doubt of it.

SENATOR LANE.—And, sir, while I know there is no such redress, I am nevertheless, notwithstanding the smiles or laughs of gentlemen on the opposite side, fully convinced of the correctness of my position. Without the maintenance of the principle of the equality of the States the Union never could have been formed, and the Constitution never could have been adopted. Sir, that equality must be maintained, or this Union cannot and ought not to last. Upon what principle of right can a Northern, sectional party set up exclusive claim to territory acquired at the sacrifice of Southern as well as Northern blood? Can such unjust pretensions be allowed, or can the Union be preserved on such terms? I think not. To preserve the Union, we must carry out in good faith every guaranty of the Constitution.

SENATOR HALE.—I was very much in hopes when the message was presented that it would be a document which would commend itself cordially to somebody. I was not so sanguine about its pleasing myself, but I was in hopes that it would be one thing or another. But, sir, I have read it somewhat carefully;

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to depart in peace. Do you mean to say that that is not to be allowed us, that we shall neither have peace in the Union, nor be allowed the poor boon of seeking it out of the Union? If that be your attitude, war is inevitable. We feel as every American citizen not blinded by passion and by prejudice must feel, that in this transaction we have been deeply aggrieved; that the accumulating wrongs of years have finally culminated in your triumph—not the triumph of Abraham Lincoln, not your individual triumph—but in the triumph of principles, to submit to which would be the deepest degradation that a free people ever submitted to. We cannot. Calmly, quietly, with all the dignity which I can summon, I say to you, we will not submit to it. We invite no war; we expect none, and hope for none. We say in the language which I once used to the Senator from New York not now in his seat [Mr. Seward], "Let there be no strife, I pray thee, between me and thee, and between my herdmen and thy herdmen, for we be brethren. If thou wilt take the left hand, then I will go to the right; or if thou depart to the right hand, then I will go to the left." All we ask is to be allowed to depart in peace. Submit we will not; and if, because we will not submit to your domination, you choose to make war upon us, let God defend the right.

ALFRED IVERSON [Ga.].—While I do not agree with some portions of the message, and some of the positions which have been taken by the President, I do not perceive all the inconsistencies in that document which the Senator from New Hampshire has thought proper to present.

It is true that the President denies the constitutional right of a State to secede from the Union; while, at the same time, he also states that this Federal Government has no constitutional right to enforce or to coerce a State back into the Union which may take upon itself the responsibility of secession. I do not see any inconsistency in that.

I agree with the President that the secession of a State is an act of revolution. It withdraws from the federal compact, disclaims any further allegiance to it, and sets itself up as a separate government, an independent State. The State does it at its peril, of course, because it may or may not be cause of war by the remaining States composing the Federal Government. If they think proper to consider it such an act of disobedience, or if they consider that the policy of the Federal Government be such that it cannot submit to this dismemberment, why then they may or may not make war if they choose upon the seceding States. It will be a question of course for the Federal Gov-

ernment or the remaining States to decide for themselves, whether they will permit a State to go out of the Union, and remain as a separate and independent State, or whether they will attempt to force her back at the point of the bayonet. That is a question, I presume, of policy and of expediency, which will be considered by the remaining States composing the Federal Government, through their organ, the Federal Government, whenever the contingency arises.

But, sir, while no State may have the constitutional right to secede from the Union, the President may not be wrong when he says the Federal Government has no power under the Constitution to compel the State to come back into the Union. It may be a *casus ommissus* in the Constitution; but I should like to know where the power exists in the Constitution of the United States to authorize the Federal Government to coerce a sovereign State. It does not exist in terms, at any rate, in the Constitution. I do not think there is any inconsistency, therefore, between the two positions of the President in the message upon these particular points.

The only fault I have to find with the message is the inconsistency of another portion. The President declares that all the laws of the Federal Government are to operate directly upon each individual of the States, if not upon the States themselves, and must be enforced; and yet, at the same time, he says that the State which secedes is not to be coerced. Of course the State is composed of individuals within its limits, and if you enforce the laws and obligations of the Federal Government against each and every individual of the State, you enforce them against a State. That the Federal Government is to enforce its laws over the seceding State, and yet not coerce her into obedience, is to me incomprehensible.

You talk about concessions. You talk about repealing the personal liberty bills as a concession to the South. Repeal them all to-morrow, sir, and it would not stop the progress of this revolution. It is not your personal liberty bills that we dread. Those personal liberty bills are obnoxious to us not on account of their practical operation, not because they prevent us from reclaiming our fugitive slaves, but as an evidence of that deep-seated, widespread hostility to our institutions, which must sooner or later end in this Union in their extinction. Sir, if all the liberty bills were repealed to-day, the South would no more gain her fugitive slaves than if they were in existence. It is not the personal liberty laws; it is mob laws that we fear. It is the existence and action of the public sentiment of the North-

States, possibly war might ensue, and there might be an attempt made to coerce her, and that would give rise to civil war; but, sir, South Carolina is not to go out alone. In my opinion, she will be sustained by all her Southern sisters. They may not all go out immediately; but they will, in the end, join South Carolina in this important movement; and we shall, in the next twelve months, have a confederacy of the Southern States, and a government inaugurated, and in successful operation, which, in my opinion, will be a government of the greatest prosperity and power that the world has ever seen.

The fifteen slave States, or even the five of them now moving, banded together in one government, and united as they are soon to be, would defy the world in arms, much less the Northern States of this confederacy. Fighting on our own soil, in defence of our own sacred rights and honor, we could not be conquered even by the combined forces of all the other States; and sagacious, sensible men in the Northern States would understand that too well to make the effort.

Besides, what would they gain if they conquered us? Would it be a Union worth preserving which is maintained by force? No, sir. I do not apprehend any war. But if the Northern States, or the Federal Government controlled by the counsels of the Northern States, shall attempt to coerce us, then war will come; and, like the Senator from New Hampshire, if he wants war, I say here to-day we are ready for it. We do not believe that war will ensue, but a wise man will always prepare for any danger or contingency that may arise; and we are preparing for war. We will fight for our liberties, our rights, and our honor. United, as we shall be, in interest and in all that we hold dear, we do not dread war, except so far as the terrible consequences which always follow armed collisions.

But, sir, I think that when we go out and form our confederacy—as I hope we shall do very shortly—the Northern States, or the Federal Government, will see the true policy to be to let us go in peace and make treaties of commerce and amity with us, from which they will derive more advantages than from any attempt to coerce us. They cannot succeed in coercing us. If they allow us to form our government without difficulty, we shall be very willing to look upon them as a favored nation and give them all the advantages of commercial and amicable treaties. I have no doubt but that both of us—certainly the Southern States—would live better, more happily, more prosperously, and with greater friendship than we live now in this Union.

ern States that are opposed to this institution of slavery, and are determined to break it down—to use all the power of the Federal Government, as well as every other power in their hands, to bring about its ultimate and speedy extinction. That is what we apprehend, and what in part moves us to look for security and protection in secession and a Southern confederacy.

Nor do we suppose that there will be any overt acts upon the part of Mr. Lincoln. For one, I do not dread these overt acts. I do not propose to wait for them. Why, sir, the power of this Federal Government could be so exercised against the institution of slavery in the Southern States as that, without an overt act, the institution would not last ten years. We know that, sir; and seeing the storm which is approaching, although it may be seemingly in the distance, we are determined to seek our own safety and security before it shall burst upon us and overwhelm us with its fury, when we are not in a situation to defend ourselves.

We intend, Mr. President, to go out peaceably if we can, forcibly if we must; but I do not believe, with the Senator from New Hampshire, that there is going to be any war. If five or eight States go out, they will necessarily draw all the other Southern States after them. That is a consequence that nothing can prevent. If five or eight States go out of this Union, I should like to see the man that would propose a declaration of war against them, or attempt to force them into obedience to the Federal Government at the point of the bayonet or the sword.

Sir, there has been a good deal of vamping on this subject. A great many threats have been thrown out. I have heard them on this floor, and upon the floor of the other House of Congress; but I have also perceived this; they come from those who would be the very last men to attempt to put their threats into execution. Men talk sometimes about their eighteen million who are to whip us; and yet we have heard of cases in which just such men had suffered themselves to be switched in the face, and trembled like sheep-stealing dogs, expecting to be shot every minute.

But, sir, there is to be no war. The Northern States are controlled by sagacious men, like the distinguished Senator from New York [William H. Seward]. Where public opinion and action are thus controlled by men of common sense, who know well that they cannot succeed in a war against the Southern States, no such attempt at coercion will be made. If one State alone was to go out, unsustained by her surrounding sister

Sir, disguise the fact as you will, there is an enmity between the Northern and Southern people that is deep and enduring, and you never can eradicate it—never! Look at the spectacle exhibited on this floor. How is it? There are the Republican Northern Senators upon that side. Here are the Southern Senators on this side. How much social intercourse is there between us? You sit upon your side, silent and gloomy; we sit upon ours with knit brows and portentous scowls. Yesterday I observed that there was not a solitary man on that side of the Chamber came over here to extend the civilities and courtesies of life; nor did any of us go over there. Here are two hostile bodies on this floor; and it is but a type of the feeling that exists between the two sections. We are enemies as much as if we were hostile states. I believe that the Northern people hate the South worse than ever the English people hated France; and I can tell my brethren over there that there is no love lost upon the part of the South.

In this state of feeling, divided as we are by interest, by a geographical feeling, by everything that makes two people separate and distinct, I ask why we should remain in the same Union together? We have not lived in peace; we are not now living in peace. It is not expected or hoped that we shall ever live in peace. My doctrine is that, whenever even man and wife find that they must quarrel and cannot live in peace, they ought to separate; and these two sections—the North and South—manifest, as they have done and do now, and probably ever will manifest, feelings of hostility, separated as they are in interests and objects, my own opinion is they can never live in peace; and the sooner they separate the better.

Sir, I do not believe there will be any war; but, if war is to come, let it come. We will meet the Senator from New Hampshire and all the myrmidons of Abolitionism and Black Republicanism everywhere, upon our own soil; and in the language of a distinguished member from Ohio [Thomas Corwin] in relation to the Mexican war, we will "welcome you with bloody hands to hospitable graves."¹

LOUIS T. WIGFALL [Tex.].—The Senator from Georgia and I do not understand the Constitution in the same way; and he and I do not look at the great issues that are now pending, and which are soon to be precipitated upon the country, from the same standpoint. If I believed that the act of secession was one of revolution, that it was one in direct conflict with the Constitution of the United States that I am sworn to obey, I

¹ See Volume II, page 367.

should hesitate much before I would advise such action as I am in the habit of advising to those who ask my opinions.

In 1852 the Democratic party at Baltimore adopted the Kentucky and Virginia resolutions, with Mr. Madison's report, as their text and creed. No man who professes to believe those doctrines can deny the sovereignty of the States. No man who professes to believe those doctrines can deny that the Constitution is a compact between States and that the States are the judges in the last resort of the meaning of that compact; and no man who admits that the Constitution is a compact between States, to which each State acceded as a State, can deny the right to secede, whenever any State sees fit. To talk of secession, therefore, being a revolutionary right is to use terms with a looseness and want of signification, a want of accuracy, that render discussion upon such a question utterly impossible between men who use these terms with definite meanings and those who use them vaguely.

When political communities, when nations, when States, enter into compacts with each other, the effect is to bind all their citizens. When the State of Texas ratified the Constitution of the United States it was a matter of not the slightest importance whether I or any other citizen of that State approved or disapproved of the ratification. We were bound by it. *Eo instanti*¹ the laws of the United States became operative within the limits of that State, and we were bound to obey those laws. When Texas, in her sovereign capacity, when the political power which made this compact, shall revoke the ratification, the laws of the United States cease there to operate, and the citizens of Texas cease to owe any obedience to the laws of the United States, because the laws of the United States extend over the limits of the United States, and Texas, having ceased to be one of the States of this Union, of course the operation and effect of those laws stop at her limits. These are plain propositions which those who call themselves Democrats profess, and those who are Democrats believe.

Has a State the right to withdraw without cause? Has a State the right to withdraw with cause? I say that it is a matter of not the slightest consequence whether there be cause or not. Each State must act for herself and upon her own responsibility, and the only thing in the message of the President which he says cannot be done is the only thing that I believe can be done by this Government when a State has withdrawn, and that is to declare war. By the Constitution of the

¹ In that instant.

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Now, this matter of war has been talked of this morning. I have no threats to make. The fact is, like Sempronius,¹ my thoughts are turned on peace. I do not think one of these cotton States, or even one of the tobacco States, withdrawing from this Union will be any cause of war. If it is or is not, this Government can declare war; and I judge that the gentlemen upon the other side of the Chamber hardly suppose that we will be stopped in our course by any apprehension that war will be the result. Surely we do not expect to make war on them. We intend to assert only that great principle which is set forth in a document for which they have such high admiration—I mean the Declaration of Independence—that every people have a right to live under such form of government as suits them. If this Government does not suit us, we will leave it. When we leave it we will not leave it as rebels, nor as traitors, nor irregularly. But the State governments will call conventions; the people will be heard; they will vote; and, unless a large majority of the people of each one of these States are in favor of resuming the powers, the powers will not be resumed. When a large number of the people of any one of these States shall conclude that they will live more happily or more prosperously under another government, they will assert that right by reforming their constitution, and erecting another government upon the ruins of the one which they have destroyed.

I regretted much to see in the message the doctrine set forth that a State had not the right constitutionally to secede, and the further error fallen into by the President that this doctrine was one of late origin. I hold in my hand, sir, Elliot's "Debates," in which the ratifications of the different States are printed; and it seems that when New York came to ratify the Constitution—there being very great doubt as to the expediency of forming a confederation such as was proposed by this Constitution, and there being bitter hostility on the part of many, there being many doubts as to how the new Government would operate—the people of New York, by their deputies assembled in convention, in the very articles of ratification, declared explicitly in these words:

"That the powers of Government may be reassumed by the people, whenever it shall become necessary to their happiness."—*Elliot's Debates on Federal Constitution, 1787, Vol. I, p. 361.*

¹ Evidently a mistake. In Addison's "Cato" the "voice" of Sempronius was "for war."

United States the Federal Government has the right to declare war. We can to-day declare war against England or against any of the great European powers. There is no cause for declaring war; but suppose we declare it: war exists; letters of marque and reprisal can be issued; their commerce can be cut up; their towns can be burned and their forts bombarded. Who can prevent it? There is the question. Suppose that Great Britain and the United States put each a different construction upon one of their treaties: the right or the wrong does not alter the fact. The United States Government can this day revoke the ratification of any treaty between her and Great Britain.

Now, then, the treaty being revoked, what is the remedy? If it is done in bad faith, if it is done without sufficient cause, the only certain result will be political infamy. The nation that breaks its treaties without cause is disgraced in the eyes of civilized man. War may result, but the treaty nevertheless would be dissolved and the citizens released from all obligations to obey it. When, then, one of these States revokes the treaty, as it is called in our platform—because the second Kentucky resolution says that it is a compact under the style and title of a Constitution for the United States, to which each State acceded as a State, and a compact between nations is a treaty—if, then, one of these States shall revoke that treaty, resume all the powers which she had delegated to the Federal Government, and vest them in her own State government, that very instant, I say, the State is, by operation of law, out of the Union; her citizens cease to owe obedience to the laws of the United States; and she is, to all intents and purposes, a foreign power. This Government can declare war if it sees fit, because it has the war-making power. The question then arises, should it declare war? The answer must be found in the breast of each man who is authorized to administer the powers of this Government.

I say, then, a State has a right, with or without cause, to withdraw; that this Government can, with or without cause, declare war. I say when a State has withdrawn she is out of the Union, and her citizens cease to owe obedience to the laws of this Government; and when this Government has declared war, with or without reason, that war exists, and all citizens found fighting under the banner of the State to which they owe their allegiance must be treated as prisoners of war if taken in battle; those who are found in the ranks of the enemy will be treated as traitors and executed by the authorities of the States which they have traitorously taken up arms against.

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Now, I ask any Senator upon either side of this floor what is the plain rule of construing contracts? If a partnership is about to be entered into by individuals, and they refer it to an attorney who is to draw up the articles of agreement, and when they come to sign it, and after it has been signed by some, one of the parties inserts above his signature an additional qualification, is there a court of justice in a civilized nation that will not hold that that new stipulation is as much a part of the compact as if it had been inserted in the body of it? Then I say that, according to the law of nations, each one of these States has a right to secede, and the right would be a perfect one without any reservation, either in the ratifications or in the Constitution itself. But I go further: I say that, though this right was complete and perfect in itself, yet when New York came to ratify she made that explicit about which a quibble might have been raised between lawyers; and that, New York having reserved to herself the right to reassume the powers therein delegated whenever it became necessary to her happiness, that became a perfect constitutional right on the part of New York, and it became also a perfect constitutional right on the part of every other State which, either previously or subsequently to that time, became a party to the compact.

I heard this morning a letter read which was written by one of the Northwestern Senators [Mr. Doolittle of Wisconsin], wherein he talked about having bought us and owning us. The people of Florida are purchased, the people of Louisiana are purchased, the people of Texas are purchased, and we are not to be permitted to live under such a government as we see fit! Do they propose to irritate us still more? It can produce no such effect upon me. I feel that perfect inexplicable stillness which a man always does when he feels that he is perfectly secure. Now, sir, if I doubted as to whether the people of the State in which I live would submit to Black Republican rule or not, I might feel some degree of irritation; but, knowing, as I do, that, as soon as those people can get into convention, they will revoke the ratification of the Constitution and again assume their position of separate nationality, and govern themselves by such laws as they see fit; knowing and feeling that, I am not at all disturbed by the presence of these Senators upon the other side, or by any idle vaporings that they may indulge in. All this will come about in good time. State after State will go out of the Union. When you have a working majority, you can declare war against us if you see fit; if you do not, probably a new treaty will be entered into between the high con-

tracting parties—one of peace and amity, when we have revoked that of common defence and general welfare. We choose, at least so far as I am concerned, to give no reason for this high sovereign act. We are the judges; and when we choose to revoke the ratification of this Constitution we will do it; and if you choose to declare war we shall not object. The right it perfect on both sides; and each will exercise its own discretion as to the expediency of the act.

While I do not intend to go into any recapitulation of the wrongs that we have suffered, and the dangers that we are about to incur by submitting longer to our present condition, I will deny a single proposition of the Senator from New Hampshire, which is that we are attempting to reverse the rule that a majority should govern. Now, sir, I admit that a constitutional majority has a right to govern; and I would never have thought of resisting the inauguration of any President who was elected by a constitutional majority. I know that there is much truth, there is much philosophy in Dogberry's saying, "An two men ride of a horse, one must ride behind"; and if we proposed to remain in this Union we should undoubtedly submit to the inauguration of any man who was elected by a constitutional majority. We propose nothing of that sort. We simply say that a man who is distasteful to us has been elected, and we choose to consider that as a sufficient ground for leaving the Union, and we intend to leave the Union. Then, if you desire it, bring us back. When you undertake that and have accomplished it, you may be like the man who purchased the elephant—you may find it rather difficult to decide what you will do with the animal. [Laughter.]

There is one matter in the message in reference to which, at the proper time, I shall introduce a resolution in order to prevent any bad effects which may flow from it—I allude to the portion of the message in which the President speaks of having sent orders to the officers commanding the forts at Charleston to stand on the defensive. I wish to know the extent of those orders; and I wish to know that in order that we may now provide for the evil which he may precipitate upon us. The people of South Carolina are a law-abiding people. They are not in the habit of having mobs in that country. They propose to meet in convention—that convention being called by the government of the State; and I entertain no doubt that that convention will pass a solemn ordinance revoking the ratification of the treaty which binds them to the other States. In the meantime they, as a matter of course, will not attempt to inter-

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madness and folly of others (if, unfortunately, it shall be so destroyed), it will be time enough then for Delaware and her representatives to say what will be her course. [Applause in the galleries.]

The effect of the President's message was most disastrous upon the prestige of the United States abroad. Said the London *Times*, on January 9, 1861:

Never for many years can the United States be to the world what they have been. Mr. Buchanan's message has been a greater blow to the American people than all the rants of the Georgian governor or the "ordinances" of the Charleston convention. The President has dissipated the idea that the States which elected him constitute one people. We had thought that the federation was of the nature of a nationality; we find that it is nothing more than a partnership.

During the entire session the President's message formed a subject of incidental discussion in the debates on more specific questions.

On January 3, 1861, Senator Stephen A. Douglas [Ill.] spoke as follows:

FEDERAL PROPERTY INTEREST IN THE SECEDED STATES

SENATOR DOUGLAS

I do not know that I can find a more striking illustration of this doctrine of secession than was suggested to my mind when reading the President's last annual message. My attention was first arrested by the remarkable passage, that the Federal Government had no power to *coerce* a State back into the Union if she did secede; and my admiration was unbounded when I found, a few lines afterwards, a recommendation to appropriate money to purchase the island of Cuba. It occurred to me instantly what a brilliant achievement it would be to pay Spain \$300,000,000 for Cuba, and immediately admit the island into the Union as a State and let her secede and reannex herself to Spain the next day, when the Spanish Queen would be ready to sell the island again for half price, or double price, according to the gullibility of the purchaser! [Laughter.]

During my service in Congress it was one of my pleasant duties to take an active part in the annexation of Texas; and,

here, by force or otherwise, with any Federal troops who may be within the limits of the State; but I say to Senators—and I wish it had been said to the President of the United States—that if, after that State has withdrawn from the Union and a sufficient time has been given to this Government to withdraw its troops from those forts, this Government shall authoritatively deny to that people the right of self-government, and attempt to keep hostile armies within the borders of that State, those forts will be taken and blood will flow. The President, in his message, says that there is no power on the part of this Government to keep the Union together by force; and yet, in the very same breath, he says that he will collect the revenues in the port of Charleston even after the State has seceded. He says that there can be no conflict between the Federal judicial power and the authorities or people of the State because he has no judiciary there. Is there anything to prevent him from appointing a judge? Is there anything to prevent him from appointing a marshal?

It is therefore important that there should be a construction put upon this message; it is important that it should be known what the President means; and if he intends to carry out that policy, or this Congress intends to do it—when that is made manifest I, for one, would urge forbearance no longer. Frederick the Great, on one occasion, when he had trumped up an old title to some of the adjacent territory, quietly put himself in possession and then offered to treat. Were I a South Carolinian, as I am a Texan, and I knew that my State was going out of the Union and that this Government would attempt to use force, I would, at the first moment that that fact became manifest, seize upon the forts and the arms and the munitions of war, and raise the cry "to your tents, oh, Israel! and to the God of battles be this issue."

WILLARD SAULSBURY [Del.].—I do not rise, Mr. President, for the purpose of protracting this unnecessary and most unfortunate debate, but simply to say, in the presence of the representatives of the different States, that my State, having been the first to adopt the Constitution, will be the last to do any act or countenance any act calculated to lead to the separation of the States of this glorious Union. She has shared too much of its blessings; her people performed too much service in achieving the glorious liberties which we now enjoy, and in establishing the Constitution under which we live, to cause any son of hers to raise his hand against those institutions or against that Union. Sir, when that Union shall be destroyed by the

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at a subsequent session, to write and introduce the bill which made Texas one of the States of the Union. Out of that annexation grew the war with Mexico, in which we expended \$100,000,000, and were left to mourn the loss of about ten thousand as gallant men as ever died upon a battlefield for the honor and glory of their country! We have since spent millions of money to protect Texas against her own Indians, to establish forts and fortifications to protect her frontier settlements, and to defend her against the assaults of all enemies until she became strong enough to protect herself. We are now called upon to acknowledge that Texas has a moral, just, and constitutional right to rescind the act of admission into the Union; repudiate her ratification of the resolutions of annexation; seize the forts and public buildings which were constructed with our money; appropriate the same to her own use, and leave us to pay \$100,000,000 and mourn the death of the brave men who sacrificed their lives in defending the integrity of her soil. In the name of Hardin, and Bissell, and Harris, and of the seven thousand gallant spirits from Illinois who fought bravely upon every battlefield of Mexico I protest against the right of Texas to separate herself from this Union without our consent.

CHAPTER XI

THE CONCILIATION BILL

Lazarus W. Powell [Ky.] Moves in the Senate That a Committee of Thirteen Be Appointed to Report a Plan for Reconciling the North and the South—Speech of Senator Powell—Propositions of Preston King [N. Y.], James S. Green [Mo.], Milton S. Latham [Cal.]—Debate on the Powell Resolution: Lafayette S. Foster [Conn.], Stephen A. Douglas [Ill.], Jefferson Davis [Miss.], Charles Sumner [Mass.], James Dixon [Conn.], Albert G. Brown [Miss.], George E. Pugh [O.], Judah P. Benjamin [La.], John P. Hale [N. H.], Alfred Iverson [Ga.], James M. Mason [Va.], William Bigler [Pa.], Senator Powell, Benjamin F. Wade [O.], Louis T. Wigfall [Tex.], William H. Seward [N. Y.], Kingsley S. Bingham [Mich.]—John J. Crittenden [Ky.] Introduces Compromise Resolutions: Debate, Senators Crittenden, Hale, Willard Saulsbury [Del.], Andrew Johnson [Tenn.], John Slidell [La.], Joseph Lane [Ore.], Senator Pugh, Alfred O. P. Nicholson [Tenn.], James R. Doolittle [Wis.], Senator Brown, Senator Benjamin, Edward D. Baker [Ore.], Senator Douglas, Robert Toombs [Ga.]—Message of President Buchanan on the Subject—Debate Continued: Senator Davis, Lyman Trumbull [Ill.], Robert M. T. Hunter [Va.], James Harlan [Ia.], Senator Seward—Daniel Clark [N. H.] Offers Substitute for the Crittenden Resolutions—It Is Carried—The Peace Convention; Its Plan Is Negated by Congress—Alexander R. Boteler [Va.] Moves in the House to Appoint a Committee of Thirty-three (One Representative from Each State) to Prepare a Plan of Conciliation with States Contemplating Secession—Committee Appointed, with Thomas Corwin [O.] Chairman—Various Plans of Conciliation Referred to the Committee of Thirty-three—William A. Howard [Mich.] Moves Resolution of Inquiry into the Situation of Fort Sumter; Carried—A Majority and Two Minority Reports Presented by the Committee—Crittenden Plan of Conciliation Rejected, and Corwin Plan Adopted—Corwin Constitutional Amendment Forbidding Congress to Interfere with Slavery in the States Is Passed by House and Senate—Farewell Address of Jefferson Davis [Miss.] to the Senate—Territorial Organization of Colorado, Nevada, and Dakota Without Slavery.

ON December 6, 1860, Lazarus W. Powell [Ky.] moved in the Senate to refer that part of the President's message which related to the present crisis to a Committee of Thirteen, to report a plan of averting disunion.

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the questions upon which the fate of the country now hangs. [Applause in the galleries.]

Jefferson Davis [Miss.] deplored the spirit in which emendations of Senator Powell's resolution had been offered.

One Senator presents, as a cure for the public evil impending over us, to invest the Federal Government with such physical power as properly belongs to monarchy alone. Another announces that his constituents cling to the Federal Government if its legislative favors and its treasury secure the works of improvement and facilities which they desire; while another rises to point out that the evils of the land are of a party character. Sir, we have fallen upon evil times, indeed, if the great convulsion which now shakes the body-politic to its center is to be dealt with by such quack nostrums as these. Men must look more deeply, must rise to a higher altitude; like patriots, they must confront the danger face to face, if they hope to relieve the evils which now disturb the peace of the land and threaten the destruction of our political existence.

First of all, we must inquire what is the cause of the evils which beset us? The diagnosis of the disease must be stated before we are prepared to prescribe. Is it the fault of our legislation here? If so, then it devolves upon us to correct it, and we have the power. Is it the defect of the federal organization, of the fundamental law of our Union? I hold that it is not. Our fathers, learning wisdom from the experiments of Rome and of Greece—the one a consolidated republic, and the other strictly a confederacy—and taught by the lessons of our own experiment under the Confederation, came together to form a constitution for "a more perfect union," and, in my judgment, made the best government which has ever been instituted by man. It required only that it should be carried out in the spirit in which it was made; that the circumstances under which it was made should continue, and no evil can arise under this Government for which it has not an appropriate remedy. Then it is outside of the Government—elsewhere than to its Constitution, or to its administration—that we are to look. Men must not creep in the dust of partisan strife and seek to make points against opponents as the means of evading or meeting the issues before us. The fault is not in the form of the Government, nor does the evil spring from the manner in which it has been administered. Where, then, is it? It is that our

Senator Powell said that while legislation guaranteeing no interference with slavery would not restore harmony to the country it would be palliative, indicating good feeling on the part of the States in the Union to those out of it, and so preparing for friendly relations.

THE CONCILIATION BILL

SENATE, DECEMBER 10, 1860-FEBRUARY 4, 1861

In the succeeding days various amendments of Senator Powell's resolutions and additions thereto were made, with suggestions of kindred measures which would cement the Union.

Preston King [N. Y.] proposed to add the words "and persons" to "rights of property," which were to be protected throughout the country.

James S. Green [Mo.] desired that the Committee of Judiciary inquire into the property of establishing an armed police force between the slave and free States to prevent invasion of one State by another, and to execute the Fugitive Slave Law.

Milton S. Latham [Cal.], taking advantage of the crisis in behalf of his State, urged the building of a Pacific railroad as a means of insuring the loyalty of the people beyond the Rocky Mountains. (This was made a part of the Republican program, passing the Republican House though defeated in the anti-Republican Senate.)

Lafayette S. Foster [Conn.] took occasion to remind the Senate that the Democratic party was in power in the country.

Stephen A. Douglas [Ill.] deplored looking at the question from a partisan standpoint.

I had hoped that we could lay aside our party feuds until we had saved the country, and then, if we must, let us quarrel about who shall govern it afterwards. I am ready to act with any party, with any individual of any party, who will come to this question with an eye single to the preservation of the Constitution and the Union. [Manifestations of approbation in the gallery.] I do not desire to hear the word party, or to listen to any party appeal, while we are considering and discussing

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fathers formed a government for a union of friendly States; and, though under it the people have been prosperous beyond comparison with any other whose career is recorded in the history of man, still that union of friendly States has changed its character and sectional hostility has been substituted for the fraternity in which the Government was founded.

The hearts of a portion of the people have been perverted by that hostility, so that the powers delegated by the compact of union are regarded, not as means to secure the welfare of all, but as instruments for the destruction of a part, the minority section. How, then, have we to provide a remedy? By strengthening this Government? By instituting physical force to overawe the States, to coerce the people living under them as members of sovereign communities to pass under the yoke of the Federal Government? No, sir; I would have this Union severed into thirty-three fragments sooner than have that great evil befall constitutional liberty and representative government. Our Government is an agency of delegated and strictly limited powers. Its founders did not look to its preservation by force; but the chain they wove to bind these States together was one of love and mutual good offices. They had broken the fetters of despotic power; they had separated themselves from the mother country upon the question of community independence; and their sons will be degraded indeed if, clinging to the mere name and forms of government, they forge and rivet upon their posterity the fetters which their ancestors broke.

But it has been said that we should not discuss the cause of existing evils. Then how are we to ascertain the appropriate remedy? It is our duty to discuss the cause and confront the danger as men resolved to perform the public service as best may serve the common good, and equally resolved not to engage in a scramble of party strife and crimination, either for party or personal advantage. It is only by laying bare the disease that we are to find a remedy. It is an ulcer. Caution, not plasters, must be applied to it.

Then where is the remedy? the question may be asked. In the hearts of the people, is the ready reply; and, therefore, it is that I turn to the other side of the Chamber, to the majority section, to the section in which have been committed the acts that now threaten the dissolution of the Union. I call on you, the representatives of that section, here and now to say so, if your people are not hostile; if they have the fraternity with which their fathers came to form this Union; if they are prepared to do justice; to abandon their opposition to the Constitu-

tion and the laws of the United States; to recognize and to maintain and to defend all the rights and benefits the Union was designed to promote and to secure. Give us that declaration, give us that evidence of the will of your constituency to restore us to our original position, when mutual kindness was the animating motive, and then we may hopefully look for remedies which may suffice; not by organizing armies, not so much by enacting laws, as by repressing the spirit of hostility and lawlessness, and seeking to live up to the obligations of good neighbors and friendly States united for the common welfare.

To dwell upon anti-fugitive slave laws is to deal with the symptom only valuable as it indicates the disease which demands attention. What though all the "personal liberty bills" were repealed: would that secure our rights? Would that give us the Union our fathers made? Would that renew good offices, or restrain raids and incendiarism, or prevent schools being founded to prepare missionaries to go into lands where they are to sow the seeds of insurrection, and, wearing the livery of heaven, to serve the devil by poisoning wells and burning towns? These are offences such as no people can bear; and the remedy for these is in the patriotism and the affection of the people if it exists; and, if it does not exist, it is far better, instead of attempting to preserve a forced and therefore fruitless Union, that we should peacefully part and each pursue his separate course. It is not to this side of the Chamber that we should look for propositions; it is not here that we can ask for remedies. Complaints, with much amplitude of specification, have gone forth from the members on this side of the Chamber heretofore. It is not to be expected that they will be renewed, for the people have taken the subject into their own hands. States, in their sovereign capacity, have now resolved to judge of the infractions of the federal compact and of the mode and measure of redress. All we can usefully or properly do is to send to the people thus preparing to act for themselves evidence of error, if error there be; to transmit to them the evidence of kind feeling, if it actuates the Northern section, where they now believe there is only hostility. If we are mistaken as to your feelings and purposes, give a substantial proof, that here may begin that circle which hence may spread out and cover the whole land with proofs of fraternity, of a reaction in public sentiment, and the assurance of a future career in conformity with the principles and purposes of the Constitution. All else is idle. I would not give the parchment on which the bill would be written which is to secure our constitutional

poison? Or, to drop the figure, who would consent to remain in alliance with States which used the power thus acquired to invade his tranquillity, to impair his defence, to destroy his peace and security? Any community would be stronger standing in an isolated position, and using its revenues to maintain its own physical force, than if allied with those who would thus war upon its prosperity and domestic peace; and reason, pride, self-interest, and the apprehension of secret, constant danger would impel to separation.

I do not comprehend the policy of a Southern Senator who would seek to change the whole form of our Government and substitute Federal force for State obligations and authority. Do we want a new Government that is to overturn the old? Do we wish to erect a central Colossus, wielding at discretion the military arm and exercising military force over the people and the States? This is not the Union to which we were invited; and, so carefully was this guarded that, when our fathers provided for using force to put down insurrection, they required that the fact of the insurrection should be communicated to the authorities of the State before the President could interpose. When it was proposed to give to Congress power to execute the laws against a delinquent State, it was refused on the ground that that would be making war on the States; and, though I know the good purpose of my honorable friend from Missouri [Senator Green] is only to give protection to constitutional rights, I fear his proposition is to rear a monster which will break the feeble chain provided and destroy rights it was intended to guard. That military government which he is about to institute, by passing into hostile hands, becomes a weapon for his destruction, not for his protection.

This Union is dear to me as a union of fraternal States. It would lose its value if I had to regard it as a union held together by physical force. I would be happy to know that every State now felt that fraternity which made this Union possible; and, if that evidence could go out, if evidence satisfactory to the people of the South could be given that that feeling existed in the hearts of the Northern people, you might burn your statute-books and we would cling to the Union still. But it is because of their conviction that hostility and not fraternity now exists in the hearts of the people, that they are looking to their reserved rights, and to their independent powers for their own protection. If there be any good, then, which we can do it is by sending evidence to them of that which I fear does not exist—the purpose of your constituents to fulfill in the spirit of jus-

rights within the limits of a State where the people are all opposed to the execution of that law. It is a truism in free governments that laws rest upon public opinion and fall powerless before its determined opposition.

The time has passed, sir, when appeals might profitably be made to sentiment. The time has come when men must, of necessity, reason, assemble facts, and deal with current events. I may be permitted in this to correct an error into which one of my friends fell this morning, when he impressed on us the great value of our Union as measured by amount of time and money and blood which were spent to form this Union. It cost very little time, very little money, and no blood. It was one of the most peaceful transactions that mark the pages of human history.

But our existing Government is not the less sacred to me because it was not sealed with blood. I honor it the more because it was the free-will offering of men who chose to live together. It rooted in fraternity; and fraternity supported its trunk and all its branches. Every bud and leaflet depends entirely on the nurture it receives from fraternity, as the root of the tree. When that is destroyed, the trunk decays and the branches wither and the leaves fall; and the shade it was designed to give has passed away forever. I cling not merely to the name and the form but to the spirit and purpose of the Union which our fathers made. It was for domestic tranquillity; not to organize within one State lawless bands to commit raids upon another. It was to provide for the common defence; not to disband armies and navies lest they should serve the protection of one section of the country better than another. It was to bring the forces of all the States together to achieve a common object, upholding each the other in amity, and united to repel exterior force. Every barrier to the freest intercourse was swept away. Under the Confederation it had been secured as a right to each citizen to have free transit over all the other States; and under the Union it was designed to make this more perfect. Is it enjoyed? Is it not denied? Do we not have mere speculative question of what is property raised in defiance of the clear intent of the Constitution, offending as well against its letter as its whole spirit? This must be reformed, or the Government our fathers instituted is destroyed. I say, then, shall we cling to the mere forms, or idolize the name of Union, when its blessings are lost, after its spirit has fled? Who would keep a flower which had lost its beauty and its fragrance and in their stead had formed a seed-vessel containing the deadliest

tice and fraternity all their constitutional obligations. If you can submit to them that evidence, I feel confident that, with the evidence that aggression is henceforth to cease, will terminate all the measures for defence. Upon you of the majority section it depends to restore peace and perpetuate the Union of equal States; upon us of the minority section rests the duty to maintain our equality and community rights; and the means in one case or the other must be such as each can control.

SENATOR FOSTER.—I was singularly unfortunate, Mr. President, in being so misunderstood by the Senator from Mississippi. I surely have made no party appeal, and have made no charge against any party as reasonable at all for the evils now existing in our country. I did, it is true, say that our Federal Government was in the hands of the Democratic party. Is it not true? I did not make the assertion in any offensive sense. I did not couple it with any intimation that that party was at all responsible for the evils under which we are now laboring. Having alluded to that fact, I said that a Senator connected with that party, and representing as gallant and as patriotic a State as belongs to the Confederacy, came forward with a resolution looking toward the restoration of peace and harmony in the country, and that in that state of things, although its phraseology was not entirely acceptable to me, and although it would be made far more acceptable by the amendments proposed to it by the Senator from New York, still, if the amendments proposed proved unacceptable to the Senator from Kentucky, I would vote for his resolution as it was, without amendment, for the reason that, under those circumstances, I considered it my duty to aid in the restoration of peace and harmony to the country.

Sir, if that is a party appeal, or if that is making a party charge, I have misunderstood and now greatly misunderstand the English language in its plainest and most obvious forms and words. My object was to show that I was ready to discard all these considerations, and discard them fully and absolutely, and I am sorry that I was so misunderstood.

SENATOR GREEN.—Mr. President, I am a little surprised, and not only a little but greatly surprised, that the Senator from Mississippi should deem it his duty to make use of language which I think so very unparliamentary in characterizing suggestions thrown out for the purpose of superinducing reflection, as quack nostrums. There are medical quacks: men who expect to accomplish results without means. So in political science there are quacks who, seeing the diseased condition of the pa-

tient, will do nothing to relieve him. But he is not a quack who, as an advising physician, does not administer medicine, but, having considered the condition of the patient, suggests a proper subject for consideration. The Senator from Mississippi has a right to condemn my suggestion, to oppose it, to vote against it; but to call it a quack remedy is such an expression as I have seldom heard in this Senate chamber. So, in regard to my friends from California; so in regard to others. We are making suggestions; we are hoping that reflection may set in, and that a proper consideration may devise something—to do what? To build up a central military despotism? No; but to maintain constitutional rights according to the plan of the Constitution as given to us by our fathers. Is there a Senator from any State in this Union who will rise in his place and say he wants more than that? If he does want more, I, for one, do not agree with him.

If my friend will read the fourth section of the fourth article of the Constitution, he will find it says this: It is the duty of the Federal Government to protect the States against invasion without any application upon the part of the Executive, without any application upon the part of the legislature. When domestic violence springs up, and you want to quell that with Federal power, Federal power cannot be exerted until the legislature or Executive demands it. But when invasion is about to occur, the Federal power is adequate to it without any request.

Is that military despotism? If it is, Madison and Washington and Pinckney and Hamilton established that Government. To call any proposition building up a military despotism amounts just to this: we are going out of the Union, right or wrong; and we will misrepresent every proposition made to save the Union.

SENATOR LATHAM.—Mr. President, my friend from Mississippi, in his allusion to me, either misunderstood me or unintentionally did me great injustice. I did not say, because I did not think it—and, if I did say it, I did not intend so to be understood—that the State which I had the honor here in part to represent would think it any cause whatever for separation because of her failure to obtain the great measure to which I alluded. I merely said this: that it would weaken her attachment, but would not certainly destroy her allegiance to the Government at any time or in any sense.

SENATOR DAVIS.—I am very happy indeed to hear the explanation of my friend from California. He will find, however, upon examining the report, I think, that I understood his lan-

guage. I am happy to find I did misunderstand his meaning, and very glad to be corrected.

The Senator from Missouri has taken special offence at my use of the word "quackery," as contrary to the usage of the Senate. I will not quarrel with him about it; and, if he is satisfied, will agree that he is a learned pundit; that he is the highest authority on parliamentary etiquette; that he is the highest authority on political merit; but I cannot consent to his construction of the Constitution. When he selects a clause from the Constitution, which he reads with peculiar emphasis, and invites me to study—that clause in the Constitution which authorizes, or rather requires the Federal Government to repel invasion—I have but to refer him to the history of the Government for the meaning of that clause. Was it to establish a military cordon surrounding the States? Was it to raise battlements, whose armaments should frown terrifically down upon the people of a State? No, not at all, sir. It was to repel foreign aggression. That power was delegated when these States united for common defense. It was to bind their separate forces into one whole; so that the power of all might be used against any common enemy that invaded either of them; not the invasion of one State by another. That was a thought which would have deterred from union; that is the sad reflection which experience alone could have suggested to our minds. The Senator from Missouri, therefore, uses the phrase of the Constitution in a meaning which it cannot have; in an intent which our fathers had not; and does to them the great injustice of believing that, while they were sweeping away even the barriers to the freest trade between the States, they were providing to build up military cordons to keep the people apart.

CHARLES SUMNER [Mass.].—Mr. President, I offer to the Senate a piece of testimony of direct and most authoritative bearing upon the present state of the Union. If I may adopt the language of the Senator from Mississippi [Mr. Davis] it will help us to make the diagnosis of the present disease in the body-politic.

I hold in my hand an unpublished autograph letter, written by General Jackson, while President of the United States, and addressed to a clergyman [the Rev. Andrew J. Crawford] in a slaveholding State:

"WASHINGTON, May 1, 1833.

["Private.]

"MY DEAR SIR: . . . I have had a laborious task here, but nullification is dead; and its actors and courtiers will only be remembered by the

people to be execrated for their wicked designs to sever and destroy the only good government on the globe, and that prosperity and happiness we enjoy over every other portion of the world. Haman's gallows ought to be the fate of all such ambitious men, who would involve their country in civil war, and all the evils in its train, that they might reign and ride on its whirlwinds and direct the storm. The free people of these United States have spoken, and consigned these wicked demagogues to their proper doom. Take care of your nullifiers; you have them among you; let them meet with the indignant frowns of every man who loves his country. The tariff, it is now"—

and he italicizes or underscores the word "now"—

"known, was a mere pretext. . . . The next pretext will be the negro or slavery question.



[SUMNER] LETTING THE CAT OUT OF THE BAG
From the collection of the New York Public Library

These are the words of a patriot slaveholder of Tennessee, addressed to a patriot clergyman of a slaveholding State, and they are directly applicable to the present hour. Of practical sense, of inflexible purpose, and of various experience, Andrew Jackson saw intuitively the springs and motives of human conduct, while he loved his country with a firm and all-embracing attachment. Thus inspired, he was able to judge the present and to discern the future. The tariff, in his opinion, was a pretext only; disunion and a Southern confederacy the real object. "The next pretext," says he—and you, sir, will mark

the words—"will be the negro or slavery question." These, sir, are his words, not mine. This is his emphatic judgment. These words and this judgment now belong to history; nor can they be assailed without assailing one of the greatest examples that a slaveholding community has given to our common country.

JAMES DIXON [Conn.].—There is a class of men, small in numbers and in influence, who assume that the present controversy is a conflict, as they say, of two civilizations; that it cannot be reconciled; that freedom or slavery must now perish. The great body of those whom I represent do not thus believe. We believe that there is no conflict of systems of labor in the different States which is incompatible with the peaceful existence of our Union. We believe that the slaveholding and non-slaveholding States may still revolve in harmonious spheres, and that, if the question of slavery shall destroy our Union, it will not be because it could not be satisfactorily and rightfully adjusted, but because the statesmen of the day are incompetent to the task.

ALBERT G. BROWN [Miss.].—Mr. President, I cannot vote for the resolution introduced by the Senator from Kentucky; and I desire, in a single word, without making a speech, to state the reason. Things have reached a crisis. The crisis can be met only in one way effectually, in my judgment; and that is for the Northern people to review and reverse their whole policy upon the subject of slavery. I see no evidence anywhere of any such purpose. On the contrary, the evidences accumulate all around, day by day, that there is no such purpose. In their newspapers, in the action of so many of their legislatures as have assembled, in the speeches of their Senators, with but one or two rare exceptions, we have accumulated evidence that there is no purpose on the part of the Northern people to reverse their action or their judgment upon this question. The Southern States do not expect that they are going to do it; and, having despaired of that reversal of judgment and that change of conduct, they are proceeding in the only mode left them to vindicate their rights and their honor. I cannot vote for the resolution of my friend from Kentucky because it would be an intimation—dare I given, it is true, but yet an intimation—to my State which is moving, that there is a hope of reconciliation. I do not believe there is any such hope. I see no evidence upon which to base a hope. I see, through this dark cloud that surrounds us, no ray of light. To me it is all darkness, midnight gloom.

If the same spirit could prevail which actuates the Senator

who has just now taken his seat [Mr. Dixon] a different state of things might be produced in the next twenty days; but we know that is not the spirit of Republican Senators; it is not the spirit of Republican Representatives; it is not the spirit of the dominant party. They have forced the matter to the present crisis, and they mean to stand by their arms. We have registered our oaths in high Heaven that we will not submit. Submission, to us, is the deepest dishonor that ever fell upon a free people. I will not, while things are progressing as they now are in my State, intimate to the people there that I have any hope of a different course. On the contrary, to-day, speaking in this presence, under all the solemnities of this occasion, with all the responsibilities which surround me, I say to them, there is no hope that this matter is to be remedied.

We read your newspapers. We have noted the fact that the great leading journal of New York, next to the *Tribune*—I speak of the *Albany Evening Journal*—proposed something which looked to a reconciliation; and the electoral college of that great State assembled a day or two after, and rebuked them for it. If any thirty-five men in the State of New York understand the public sentiment of that great State, the members of the electoral college are the men. They understand it better, perhaps, than the two Senators and thirty-three Representatives. They rebuked that journal for holding out the olive branch for an instant.

Are these evidences that there is any disposition on the part of the Republicans to abandon any part of their program? No, sir; what was said only yesterday by a Republican member of the House is true: "We never mean to ground our arms until we have emancipated the last slave in America." That is their purpose, disguise it as they may; and we never mean to sink down to that position. Better, ten thousand times better, that we separate in peace; but if that cannot be done, then we must separate in war. To be under your domination we cannot and will not. Calmly, deliberately, dispassionately, the Southern people have made up their minds to that.

Gentlemen talk about making appeals. I make no appeals, because I will not appeal where I know my appeal is to be rejected. I will not make appeals that my own friends will read as a hope that this difficulty may be reconciled. I prefer to present to them the plain stubborn facts as they are; to tell them that Republicanism has shown no disposition to recede, and we stand face to face, and all that is left to us is either a peaceable or a violent separation.

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more than seventy years of liberty and happiness and prosperity as a confederation of States must we now acknowledge that our constituents, some thirty million in all, with every advantage that men could desire for self-government, are unable to decide their differences in a satisfactory manner? Why, sir, what hope is left for mankind anywhere? Will you pretend that the Southern people are capable of free government hereafter if they cannot now commune with their Northern brethren upon fair and honorable terms of adjustment? Or shall we, on our side, indulge a pretension equally vain? We stultify ourselves, all of us, in saying that we cannot hear, cannot discuss, and cannot compromise the controversy with which we are threatened. That is to say, in so many words, that our experiment of the Union is a failure; and, more than that, your Southern Confederacy will be a failure, and all other confederacies to the end of time. Mr. President, I have not attained any such conclusion; I am not of opinion, as yet, that a majority, or any considerable number of the people, South or North, desire the bonds of this Confederacy to be torn asunder. There has been crimination upon both sides; there have been outrages on both sides; there have been things which ought to be redressed, some by the arm of the law, some by a more faithful administration of our Federal and State governments; but there has been nothing which cannot be redressed promptly, fairly, and in the most efficacious manner. I believe, before God and my country, that ninety-nine hundredths of the people in every State, North and South, are anxious this day to redress all outrages and all causes of reasonable complaint.

Why, then, do we hear such defiance exchanged? I heard them on Wednesday last when I came hither and resumed my seat. I heard the Senator from Georgia [Mr. Iverson] declare that the people of the North hated the people of the South, and the people of the South reciprocated that sentiment. I believe the Senator has pronounced a calumny on his constituents as well as on mine. I do not mean to speak disrespectfully of him; I speak of his accusation, and not of himself. I understood the Senator from New Hampshire [John P. Hale] to proclaim, in like manner, not the gospel of peace between brethren, but a circumspect waiting to ascertain whether Mr. Buchanan would or would not send a Federal army to coerce the State of South Carolina. I trust, sir, if Mr. Buchanan should commit so high-handed and fatal an act of violence as that, his term is not too brief as President of the United States for him to be arraigned at our bar by an impeachment. What would South Carolina

If it be true that the Northern people have been taught in the schools and in the churches following the advice delivered to them by the Senator from New York [Mr. Seward] more than twelve years ago, when he told them: "slavery must be abolished and you and I must do it," and that the mode to do it was to begin in the schools and in the churches; if this kind of teaching has so seized on the minds of the Northern people that the rising generation, and even the young and active generation, have learned to hate the Southern people with all the bitterness with which you have taught them to hate us, is it not nonsense to bring forward resolutions like these with the hope of remedying the evil? It has taken you twenty-five years to teach your people thus intently to hate us. If I could believe that you would go to work in earnest and unteach them in twenty-five years to come, I would wait for it; but I see no evidence of this. Your teaching is going on; it is going on now in your newspapers, in your churches, and in your schools; and even your gray-headed Senators go home and inculcate it. We have been driven to a position where it is absolutely necessary for us to take care of ourselves. I will hold up no false lights to the State which I represent. I will tell them the plain and stubborn truth, and let them act, as I think they ought to act, for themselves. I hope they will act like men and freemen; and, whatever their action may be, I shall stand by them for good or for evil. If Senators on the other side have propositions to submit which look to reconciliation, I will consider them; but they must be propositions which, in my judgment, strikes at the root of this evil, not mere propositions for delay, such as that introduced by my friend from Kentucky. I can understand why a lawyer in court who has been driven to the wall may file an affidavit for delay, or put in a plea for delay; but I cannot understand why a Southern Senator in the present condition of affairs puts in a plea, or an affidavit, or makes any application for delay. We are better prepared to defend ourselves now than we shall be next year. The people are ripe for it. Let them go on. Hold out no delusive hopes. Let them meet the issue as it is, and I undertake to give my judgment that they will meet it successfully.

GEORGE B. POOR [O.]—Mr. President, I did not intend to utter one word in regard to this resolution, except to vote for it; but I cannot permit the speech of the Senator from Mississippi [Mr. Brown] to pass without some particular observation. Granting the premises of his argument, which I do not entirely grant, he has failed to justify the conclusion announced. After

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be worth to herself or to us if she were dragged captive in chains? I wish no State of this Union to be subjugated by her sisters. If she cannot be retained by the bonds of affection, or, if estranged, cannot be brought back to us by the arms of kindness, why, then, in God's name—horrible as I esteem such an alternative—let her depart in sorrowful silence.

The difficulty is, that we men of the North do not rightly understand the Southern people, and that they do not rightly understand us. I fear that no remedy is within the reach of Congress, and, therefore, I deprecate any discussion of particular questions. I hope the committee now to be appointed, in virtue of this resolution, will look beyond and above all present controversies; and, if it can do nothing else, as I think it cannot, will advise us to declare to our constituents, in some solemn form, that no methods of legislation—no method of constitutional amendment to be inaugurated here—can be of the slightest efficacy or use. We must tell the people, in every State, to follow the example of their fathers—to choose delegates for conventions of all the States separately, and afterwards for a convention of the States together. The entire field of controversy should be reviewed and patiently considered, in order, if possible, to lay more deeply, more broadly, and, I trust, more wisely the foundations of our common liberty and security and happiness.

I hope the Senator from Mississippi [Mr. Brown] will reconsider his determination. I do not believe that his constituents would think worse of him because in response to an appeal of amity and friendship, he planted himself in the very door of reconciliation and kept it open as long as any one would speak a single kind word.

SENATOR BROWN.—The Senator will allow me a moment. I never intimated that we would not listen to appeals; I never said that this case could not be adjusted; but I said there was no disposition on the Republican side to do it. My friend from Ohio and I have not the power to do it. He is not speaking for the Republicans. They are the power in the Government, and, so far as we have had any intimations from them, they have no propositions to make, and none to accept. My friend from Ohio and I might talk to the end of the next century and agree or disagree as much as we pleased—

JUDAH P. BENJAMIN [La.]—You and he could agree in five minutes.

SENATOR BROWN.—He and I would have no difficulty at all. If the Republicans will trust their cause to him [laughter] and

the Democrats to me, we will settle the question before the sun goes down, without the least trouble in the world. Then I cannot have any difficulty with him. It is the power behind him I am talking about.

SENATOR PUGH.—My honorable friend from Mississippi has no "Republicans" to conquer at home. That duty remains to me and to more than a million Northern Democrats like me. I now tell the Republicans frankly, that, unless they approach this controversy in a spirit of honorable conciliation, they have won their last victory in the non-slaveholding States, and, assuredly, in the States northwest of the Ohio River. They did not win the presidential contest on any such propositions as some of them have announced on this floor and they know it.

Let us have done with mere altercations. Is it not an utter disgrace that the first men of the Republic should come hither, at the seat of Federal Government, representing the sovereignty of their proud States at home, when the fabric of our common liberty is tottering to destruction, and, instead of stretching forth their arms to stay such ruin, should fold them inanely, helplessly, and hopelessly, as did the Roman Senators at a time of barbaric invasion.

SENATOR HALE.—Mr. President, I rise to correct a misapprehension of the Senator from Ohio, in a statement which he has made of some remarks that I made here a few days ago. I do not know that I ever spoke in my life when I was so persistently and so obstinately misrepresented. I do not refer now to the Senator from Ohio, because I do not think a Senator here would do it; but I speak of a few craven, cowardly, infamous wretches, that, in the providence of God, have found themselves editors of some of our Northern papers and seem to think it is incumbent on them to utter an apology, about once a week, that God ever sent such miserable wretches into the world. It is from their hands that this persistent misrepresentation comes. I understood the honorable Senator from Ohio to say that I had declared that I wanted to wait to see if Mr. Buchanan would not send a Federal army down to coerce South Carolina.

SENATOR PUGH.—I say to the Senator frankly that I did so understand his remarks—not that he used those words, but that was the amount of what he said, as I thought. I shall be very happy if the Senator did not mean that.

SENATOR HALE.—Well, sir, if so intelligent a man as the Senator from Ohio misunderstood me in that respect, I ought to abate a little of those adjectives that I have heaped on those editorial wretches. [Laughter.]

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world than to see that bill of indictment fairly, honestly, and intelligently made out. What is it that my State has done? I represent but one State. I am unfortunate. A great many gentlemen represent whole squads of States. [Laughter.] I represent only one, and she is one of the smallest in the Union. I should be glad to see the bill of indictment fairly and squarely and legitimately and constitutionally made out. I would ask gentlemen to put their finger on the place and name the time and the occasion when the State which I have the honor in part to represent here has done anything inconsistent with her constitutional dignity and her constitutional duty—inconsistent with that fraternal feeling which should govern the representatives of the States of this Confederacy. And, sir, I can tell the honorable Senator from Georgia that, when I speak of this fraternal feeling, it is a little more than skin deep with me. I have gloried in the Union and in the country, and the whole of it; and I believe, sir, that if evil days are before us, they are the just judgments of a righteous God for the iniquities of a people who have been blind to His mercies and reckless in the use of the great privileges that He has bestowed upon them.

SENATOR PUGH.—I certainly must apologize to the Senator from New Hampshire. I did understand his speech as I said; but I am very happy to be under the necessity of apologizing, he has left so much more pleasant impressions on my mind by this speech than he did by the other.

JAMES M. MASON [Va].—I look upon the present crisis as a war of sentiment and opinion by one form of society against another form of society. How that will end I will not undertake to predict; but, if there be a remedy for it, it is not here; it must be at home in their own State councils; and I should regret extremely if any vote I am to give here should mislead public judgment so far as to lead them to suppose that they are to look here for safety.

I fear, too, sir, that in what fell from the honorable Senator from New York [Mr. King] we are admonished of the sort of legislation that is looked to on that side as a remedy for impending dangers. The honorable Senator says that it is the duty of the Executive head of the Confederacy to execute the laws; that it is the duty of Congress, if he has not sufficient power now under the law, to give it to him; that he knows of nothing that can resist the laws unless it originates in insurrection or rebellion, which is to be put down. That means, Mr. President, that, in the relation which subsists between the States of the Union and the Federal power, State existence is not to

SENATOR PUGH.—I think you had better leave the adjectives out.

SENATOR HALE.—I said that, in my humble judgment, the course of events would lead to war; and when the Senator from Mississippi [Mr. Brown] asked me if I meant to threaten war, I repeated over and over again that I meant no such thing; but I believed that the course of events was tending in that direction. I said it, and I believed it, and I believe it now. I deprecate it as much as any man on this floor can; I would make as much honorable concession as any man can; but I should scorn myself, and the gallant people that sent me here would scorn me, if I could stand up on this floor to menace war. I will go further. I will say to the Senator from Ohio that I not only never said, but I never had such a thought as, that Mr. Buchanan would send an army down to South Carolina. I will tell you, sir, what I believe to be his position—and I am sorry to be provoked to say it. I believe that, instead of sending an army down to South Carolina, Mr. Buchanan is on his knees before them to-day, begging them for God's sake to stave this thing off until the 4th of March, so that he may get out of the way of the shower before it comes. [Laughter.]

There was one thing which the honorable Senator from Mississippi [Mr. Davis] said while he was up that I did not exactly catch, and nothing but my reluctance to break in upon a gentleman while he is speaking prevented me from asking him at that time if I understood him correctly. He said that he appealed to this side, to this party, who had committed the act which had driven us to this position. As I did not get the floor of the Senate, I went over and asked the Senator from Mississippi privately if I understood him, because, although the Senator from Georgia [Alfred Iverson] the other day represented that there is a state of armed neutrality here; that nobody here ever goes to the other side, and that nobody there ever comes here, I will say that whenever I have had occasion to go over on that side, even though it were to address the Senator from Georgia himself, I have always met kind, courteous, and gentlemanly treatment.

SENATOR IVERSON.—It is all on the surface; only skin deep.

SENATOR HALE.—Well, then, sir, I have done you more credit than you deserve. [Laughter.] Thus encouraged, I went over and asked the Senator from Mississippi candidly, and it seems I misunderstood him. He did not speak of any particular act, but of a series of acts. Now, sir, I declare, before God and the country, that there is no one thing that I more desire in this

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be recognized; and that, if a State abandons the Union, separates from it, severs all political connection with it, that fact is not to be recognized by, or known to, the Federal Government. A State in the full plenitude of her sovereignty entirely resumed by her fundamental law, absolves her citizens from the allegiance they formerly held to the Government which they abandoned. That is not to be known; but the law is to march straight forward, like the car of Juggernaut, crushing all who may oppose it. They may call it what they please; they may call it putting down resistance to the laws, or insurrection, or rebellion, or treason in a citizen, but at last it is war—open, undisguised war—by one political power against another political power. Well, sir, if this be true, I am not one of those who will lend my aid or my vote to any legislation contemplating such a state of things.

WILLIAM BIGLER [Pa.].—I tell you, Mr. President, that the question is settled in relation to this great movement which is now progressing in certain of the Southern States. I know the efforts that are now being made to stay the hand of the Southern people, and to cool down the patriotism which is burning within the Southern hearts; but it will be ineffectual, sir. When the barricades of Paris were raised and the masses of that great city were upheaving in their majesty against the arbitrary power of the monarchy, Louis Philippe saw his danger and attempted to avert it by changing his ministry. He turned out M. Guizot and nominated M. Thiers as his principal adviser. That he supposed would quiet the dissensions which he saw rising around him; but, sir, the words "too late," "too late," went all through the streets of Paris. The next day, when he found the streets barricaded, he abdicated the throne in favor of his grandson, and made an effort, through his friends, to obtain the regency of his daughter, the mother of the Count of Paris. When that was done, in the hope that he might quell the insurrection then rising around him, "the same words 'too late' ran through all the masses of Paris, ringing out in sepulchral tones like the trump of the archangel summoning the dead to judgment." So now, sir, you may tinker the Constitution, if you please; you may propose concessions; you may suggest additional legislation; you may present additional constitutional securities; you may attempt by all these ingenious devices to stay the storm which now rages in the Southern States, to prevent that people from marching on to the deliverance and liberty upon which they are resolved; but, sir, the words "too late" that ring here to-day will be reiterated from mountain to

valley in all the South, and are now sounding the death knell of the Federal Union.

Senator Douglas replied to the charge of Senator Iverson that the Fugitive Slave Law was not enforced in the Northern States. Other laws, notably that against the slave trade, were not enforced. The Fugitive Law was observed in nineteen cases out of twenty in Illinois. As to the personal liberty laws, they existed only in States where the fugitives rarely go. Illinois had no such law. Strangely enough the border States, whence the fugitives came, were not complaining.

If you go North, up into Vermont, where they scarcely ever see a slave, and would not know how he looked, they are disturbed by the wrongs of the poor slave just in proportion as they are ignorant of the South. When you get down South into Georgia and Alabama, where they never lose any slaves, they are disturbed by the outrages and losses under the non-fulfillment of the fugitive law just in proportion as they have no interest in it, and do not know what they are talking about. [Laughter and applause in the galleries.]

If this Union is to be severed, it will be because the two extremes, who are so far from each other that they do not understand the evils of the question, are each acting under a misapprehension toward the other, and, hence, are doing injustice to each other.

Senator Powell replied that the neighboring border States, North and South, were not as friendly as Senator Douglas stated. Thus the Governor of Ohio, William Dennison, had refused to deliver a fugitive slave upon requisition by the Governor of Kentucky. Kentucky, he said, lost every year more than \$100,000 worth of slave property by the operation of the "Underground Railroad" (an Abolition organization which spirited away negroes from the South to Canada).

Benjamin F. Wade [O.] said that the requisition was not honored because it failed to show that the fugitive had ever been in Kentucky. Senator Powell denied that this flaw existed, and stated that Thomas Ewing, Sr. [O.], had denounced Governor Dennison for failing to comply with the requisition.

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there is no grievance growing out of a non-fulfillment of constitutional obligations which cannot be remedied under the Constitution and within the Union; and I hold that every constitutional obligation imposed by that instrument must be executed by the Federal Government. If legislation is necessary Congress is the proper tribunal to furnish that legislation, and not conventions of the separate States. The Constitution does not prescribe that as a mode of fulfilling constitutional obligations.

LOUIS T. WIGFALL [Tex.].—The Senator from Illinois pledges himself here before the country, and as a Senator, that if we will make out our list of grievances, and state the specifications, he, by his vote, will remove them. Now, sir, I accept the pledge, and I will state a grievance. It is that the inhabitants of a Territory, gathered from every quarter of the world—from the five points of New York and the purlieus of London—under homestead bills, have squatted upon domain that belongs to these States; that they, in their arrogance and impudence, countenanced by men whose opinions have in other days weighed with the people of the United States and in open violation of the organic law, in open violation of the law of Congress that organized the Territory, have attempted to decide what is property and what is not, and to confiscate it. Now, I ask the Senator from Illinois whether he will vote to repeal their unconstitutional, illegal legislation, and whether he will vote, in order to restore peace to the country, for enforcing the laws and protecting the rights of the people of the South in their property within the Territories? That is one of the grievances under which we are excited, under which we are suffering. It is one of the points that has excited the public mind as much as any other, and the country in which I live infinitely more than the Fugitive Slave Bill, or all other bills upon that question. It is this attempt of the inhabitants of a Territory to assume powers which are denied, in this day and generation, the people of sovereign States.

Now I put it to the Senator from Illinois. I wish no dodging. Our proposition is that slaves are property. We say that they are property by the laws of the States in which we live. We say that they are recognized as property by the Federal Constitution. Three times in that compact are they recognized as property. First, there is a provision that, before the year 1808, the slave trade should not be interrupted. Then it was recognized as a legitimate matter of commerce. The slave trade could not by Congress be interfered with for twenty years. It was the

Senator Wade then admitted that the refusal could not be justified on the ground he had urged, but he claimed that a Governor of Kentucky had failed to comply with a requisition from the Governor of Indiana in a case of (negro) kidnapping, because this was not an offence in Kentucky, and Governor Dennison thus had precedent for his refusal.

SENATOR DAVIS.—Mr. President, we seem to have entered on exactly that field which I had hoped might be avoided—one of crimination and recrimination.

It is not by pleading to special cases and asking for specifications, it is not by crimination and recrimination that the sense of the people is likely to be changed or the action of the States now assuming to judge in the last resort is to be modified in any degree, or that their respect for the manner in which the subject is here treated is to be heightened. All that can serve a useful purpose at the time is to bring forth evidence, if the fact exists, of that kind of feeling toward us, the absence of which we consider the greatest grievance under which we labor.

Senator Mason again addressing himself to the subject of popular conventions in the States to discuss the subject of reconciliation, Senator Douglas replied as follows:

Why is it that the non-execution of a law, or a defect in an act of Congress, cannot be remedied in Congress, but must be referred to a convention of States? And what sort of a convention of the States is proposed? Not a convention of all the States; but it is proposed that the Southern States shall go into convention by themselves, and the Northern States by themselves; and when they get into separate conventions the same misapprehensions that have blinded the judgment of Senators here will blind the judgment of the conventions; and each convention will criminate against the other section, and have nobody there to expose the error. The Senator thinks it a misfortune that we have got upon these details. I am delighted that we have some specifications, so that we can discuss details. All I ask is that the specification of grievances shall be made out. Give us each charge and each specification. If there is any one that can be substantiated I will vote for the necessary legislation and the necessary power in the executive to remove it; and every one that is not true should be abandoned. I hold that

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only branch of trade that could not be interfered with. This was a clear, distinct recognition of the principle that man has the right to own property in man—yes, sir, and to traffic in the souls and bodies of men. That is in the Constitution. Another recognition of slaves as property is in the further provision that when they escape they shall be delivered up on claim of their owners. The third is the provision as to taxation and representation. We say, then, that slaves are property by the law of the land; by our own State constitutions and State laws; that slaves are recognized in the Federal Constitution as property. We say that within our own limits we will protect that species of property. Within the limits of the States where it is not property we ask no protection. We say that in all Federal territory, in this District of Columbia, on board our merchant vessels when three miles from shore, wherever the Federal flag floats, or the Federal laws extend, or the Federal courts have jurisdiction, there we are entitled to protection unless this Government is unlike any other government that ever was instituted by man, and is not pledged to protect the property of citizens that is within and under its jurisdiction. These being our views, we demand that in the District of Columbia, in the forts, in the navy yards, in the dock-yards, on board of our merchant vessels when three miles from land, and in the Territories, that species of property shall be protected by Federal legislation. Will the Senator give us that protection?

SENATOR DOUGLAS.—If the grievance is that we have not passed laws to protect slavery in the Territories, why does not some one of you bring in a bill to protect slavery in the Territories? It will not do for you to say you will destroy the Union for fear we will not do that which no man of you will bring forward a law to do. Nor will it do for you to assume that such a bill would not be passed until you make the effort. It will be time enough for you to assign that as a cause for breaking up the Union when you have made an effort and have failed in getting the law passed.

SENATOR WIGFALL.—What is the use of our discussing on this side of the Chamber what we would be satisfied with, when nothing has been offered us, and when we do not believe that we will be permitted to retain even that which we now have? If Northern Senators, who have denied that, by the Constitution of the United States, slaves are recognized as property; who have urged and advocated those acts which we regard as aggressive on the part of the people—if they will rise here and say in their places that they desire to propose amendments to the Constitu-

tion and beg that we will vote for them; that they will, in good faith, go to their respective constituencies and urge the ratification; that they believe, if these Gulf States will suspend their action, that those amendments will be ratified and carried out in good faith; that they will cease preaching this "irrepressible conflict," and if, in those amendments, it is declared that slaves are property, that they shall be delivered up upon demand; and if they will assure us that Abolition societies shall be abolished; that Abolition presses shall be suppressed; that Abolition speeches shall no longer be made; that we shall have peace and quiet; that we shall not be called cut-throats and pirates and murderers; that our women shall not be slandered—these things being said in good faith, the Senators begging that we will stay our hand until an honest effort can be made, I believe that there is a prospect of giving them a fair consideration. [Laughter on the Republican side.]

Senators laugh in my face. I beg that my friend from Kentucky [Mr. Powell] and other Union-savers upon this floor will look and see the derision, the contempt, that is expressed in every Senator's face on the other side when I make these propositions. I trust that they will understand. *Nas est ab hoste doceri*—learn even from your enemies some wisdom. Waste not your time in idle prattle. You are regarded as poltroons; and they talk of force, of coercion, of holding this glorious blood-bought Union, as they regard it, together with hemp. And yet you petition and beg and ask that this "glorious Union" may be continued, in order that you may be taxed, and that the hard earnings of those men whom you represent shall be taken from their pockets in order to build up Northern wealth and property, to clear out their harbors and construct their roads. This is the manner in which you are treated when you talk about compromise. I say to the Senators on the other side that you will have to abolish your Abolition societies if you expect to live long in our company. I say that within your borders there are presses and there are public speakers, and unless the newspapers have given a false account of the fact your President-elect a few months before his nomination was a hired Abolition lecturer, delivering, at \$100 each, lectures throughout the country, exciting the people against us. We say to those States that you shall not—that is the phrase I choose to use, and I reflect the feeling and determination of the people I represent when I use it—you shall not permit men to go there and excite your citizens to make John Brown raids or bring fire and strychnine within the limits of the State to which I owe my allegiance. You shall not

delphia, but through our own ports—\$250,000,000 of imports; and forty per cent. upon that puts into our treasury \$100,000,000. Twenty per cent. gives us \$50,000,000. What tariff we shall adopt, as a war tariff, I expect to discuss in a few months, and in another Chamber.

You suppose that numbers constitute the strength of governments in this day. I tell you that it is not blood; it is the military chest; it is the almighty dollar. When you have lost your market; when your operatives are turned out; when your capitalists are broken, will you go to direct taxation? When you cease to have exports, will you have imports? Burn down a factory that yields ten, fifteen, twenty, twenty-five thousand dollars a year to its owner and he goes to the wall. Dismiss the operatives, stop the motion of his machinery, and he is as thoroughly broken as if his factory were burnt; for the time he is bankrupt. These are matters for your consideration. I know that you do not regard us as in earnest. I would save this Union if I could; but it is my deliberate impression that it cannot now be done. I have been studying the character of the people that you represent for years past. The family of Dives was the most prolific family that ever breathed or lived upon this earth. Those five brothers would not believe either Moses or the prophets; and if one rose from the dead we are told that they would not believe him. They were prolific, and their descendants have settled in the country in which you live. [Laughter.] That is your business, however; not mine. Now, the question is, can the Union be saved?

I desire the Union to be saved. I have always been a Union man; I am now a Union man—not from any silly notion that it is of divine origin; not from any absurd idea that blood was ever shed for it; not because I suppose it is an inheritance from our fathers, for it is neither one nor the other. This Union is a compact between States, and may, with the same propriety, be regarded as an inheritance as you would regard a treaty between Great Britain and France, or either of those countries and this.

This is the Union; and when the distinguished Senator from New York [Mr. Seward] said that there was an irrepressible conflict I simply came to the conclusion that he did not know what he was talking about. Why, sir, States that are monarchical in their form of government, States that are republican, States that are democratic, States that are aristocratic, States that are slaveholding, States that are non-slaveholding, States that are agricultural, States that are commercial, States that are manu-

publish newspapers and pamphlets to excite our slaves to insurrection. You shall not publish newspapers and pamphlets to excite the non-slaveholders against the slaveholders or the slaveholders against the non-slaveholders. We will have peace; and if you do not offer it to us we will quietly, and as we have the right under the constitutional compact to do, withdraw from the Union and establish a government for ourselves; and if you then persist in your aggressions we will leave it to the *ultima ratio regum*,² and the sovereign States will settle that question

"Where the battle's wreck lies thickest
And death's brief pang is quickest."

And when you laugh at these impotent threats, as you regard them, I tell you that cotton is king! [Loud applause in the galleries.]

I say that cotton is king; and that he waves his scepter not only over these thirty-three States, but over the island of Great Britain and over continental Europe, and that there is no crowned head upon that island, or upon the Continent, that does not bend the knee in fealty and acknowledge allegiance to that monarch. There are five million people in Great Britain who live upon cotton. You may make a short crop of grain, and it will never affect them; but you may cram their granaries to bursting, you may cram them until the corn actually is lifting the shingles from the roofs of their barns, and exhaust the supply of cotton for one week and all England is starving; and we know what men do when suffering from famine. They do not burst open barns and divide the corn. In their frenzy they burn and destroy. We shall never again make less than five million bales. I know that Senators on the other side suppose that when "this glorious Union" is disrupted it will be in blood, and that our negroes will rise in insurrection. We understand it well enough to make the experiment, and I say to Senators upon that side that next year they will see the negroes working as quietly and as contentedly as if their masters were not leaving that country for a foreign land, as they did a few years ago when they were called upon to visit the Republic of Mexico. We understand that question. Five million bales of cotton, each bale worth fifty dollars at least—fifty-four dollars was the average price of cotton last year—give us an export of \$250,000,000 per annum, counting not rice, or tobacco, or any other article of produce. Two hundred and fifty million exports will bring into our own borders—not through Boston and New York and Phila-

"The last argument of kings."

facturing, can all live under precisely such a Constitution as the old thirteen States ratified and made binding between them; and there is no irrepressible conflict about it. The very diversity of interest in these different States is the reason for forming the Constitution. If we had been a homogeneous people, if our industrial pursuits and interests had been identical, there would have been no necessity for a Union, no necessity for consolidating the Union; but there would have been a necessity for destroying the old Articles of the Confederation, obliterating State lines, abolishing State governments, destroying the Union, and becoming a single consolidated people. Why? Because, under those circumstances, the interests, the prejudices, and the passions of all sections being the same, the ballot-box would have given ample security to domestic peace and tranquility and prosperity.

Your irrepressible conflict is predicated upon the supposition that this is a consolidated Government; that there are no States; that there is a national Government, and they call it; that the people who live between the two oceans and between the Gulf and the lakes are one people; that the boundaries of Massachusetts have, by some hocus pocus, been extending themselves until they embrace all the remainder of the Union; and that we are one people, have a national Government, and are under the control of "the Massachusetts school of politics," as the Senator from New York said he was. This is the fatal error. If you could have seen it in time much of this difficulty would have been avoided. We see and we know and we feel that you are administering this Government upon the idea that there is but one single State or nation, and that you, under these impressions, believe that you are responsible for the domestic institutions of all the other States.

If you suppose that we are to be amused with the clap-trap of 4th of July froth and the idea that there is anything of sacredness in a compact between nations, or that nations inherit rights, I simply say that those among whom I live have passed that point. So devoted a friend of the Union am I that when (as I know it must be, because I see no disposition to save or to prevent it) the eight cotton States have withdrawn from this Union, as they will in the next two months do, and meet in convention to adopt a federal form of government for themselves, and to establish a foreign department, I for one shall advocate the adoption, without crossing a *t* or dotting an *i* of this same old glorious Constitution that was ratified by the old thirteen States; and when Virginia and Tennessee and Maryland and Kentucky

and the other border States see what we have done, and know that the States who propose confederation to them will keep their treaty compacts, I have no doubt that one after the other of them will come into our Union, and many days or months will not pass before this beautiful fabric will again be the scene of our discussions, in which we will consider not only those matters which appertain to us in our domestic affairs, but our foreign relations with you, and it may be, if war can be avoided, which you desire not to avoid, for you are wiser than that, we may here form a treaty with you.

You know full well that if this Union is dissolved, and these Southern States go off, and your commerce is cut up, and your merchant princes are bankrupt and go to protest, and your manufacturing are stopped, and your operatives are turned out, and your ships, deprived of the navigating laws, are laid up to rot, and your sailors turned loose to starve—you know that when these things occur your heads will not be safe upon your shoulders. But if, in the meantime, you can bring the power of the Federal Government to coercion, and, before the treasury is drained of its last dollar, you can make soldiers out of your operatives and your sailors, you expect then, amid the heat of the contest, the confusion of ideas, as well as everything else, that you can conceal the facts, and denounce us for the calamities that are on this people; and you expect not to lead, but to send them to battle. I understand your game as well as you do. There may, in this general arrangement, be conservative States of the North included. Pennsylvania may see that her iron and coal are about to be dug in the mountains of Tennessee and Virginia and North Carolina; Ohio and Indiana and Illinois may see that the grain, and the meat, and the hemp, and the horses, and the mules, which they now furnish to us, may be bought in Kentucky and in Missouri and in Tennessee; and they may leave you in the cold and come to us; and when they do they will understand the blessings of this Union from having lived out of it a few months, and they will be prepared to carry out in good faith the compact which they entered into with us.

If it were not for memories of the past, and for patriotic sentiments which I have heard from some persons who live in New England, I would regard it as the greatest blessing that had ever befallen the human family that they could be left to live upon granite and ice. I do not know whether it would have any effect upon them; but it is said that hunger will tame a wolf. I do not know whether it would have any effect on them; but this I do know, that then they would have to content them-

Then another proposition which I would make, if you were seriously disposed to consider it, would be, that you should cease to discuss the question, and be content that you are in a better situation than we are. Thank God that you are not, like us, poor publicans; but do not be thrusting your blessings all the time in our faces. Restrain your own citizens, and keep them from making raids. In the State in which I live during the last summer there were four towns that I know of, county sites, burned smooth to the ground. There were fourteen other settlements that were burned down. Strychnine was brought and given to our negroes, for the purpose of poisoning their masters. An association called "The Mystic Red" was entered into by members of the Methodist Church North and the John-Brown men; and their purpose was to carry out the irrepressible conflict, to burn our towns, burn up the stores of our merchants, burn up the mills, to bring free-soil Northern capital in, and thus get possession of Texas, and make it a free State, in order, as they said, to belt us round with free States, to starve us out or cause us (as has been said by one whose language I seldom quote) like poisoned rats, to die in our holes.

This is what you call union and fraternal affection. Why, sir, it is the result of that Helper book indorsed by yourselves. It is the result of the preachings and the teachings of the Senator from New York. It is the result of the preachings and teachings of other Black Republican leaders. It is the result of the preachings and teachings of your followers or pretended followers of Christ. In your schools you teach your children to hate us. In your pulpits you teach it as a religious duty. Upon the hustings you teach it. Your eighteen Northern non-slaveholding States nominate two of the most fanatical of your sect as candidates for President and Vice-President. You elect them; and now you tell us that they shall be inaugurated. Previously to the election and to the anticipated inauguration you organized a Prætorian guard. The Senator from New York told his John-Brown, Wide-Awake Prætorians¹ that their services could not be dispensed with after the election; that they would be needed to secure the fruits of the victory. One-half million of men uniformed and drilled, and the purpose of their organization to sweep the country in which I live with fire and sword—

SENATOR SEWARD.—I cannot tell what there has been which could be perverted or misunderstood so as to imply that I have

¹A marching organization of Republicans in the recent presidential campaign.

selves with managing their own affairs; and if they permitted their people further to interfere with us the sword would settle the contest, and the next treaty which was signed would be in Faneuil Hall, in the town of Boston, and in the State of Massachusetts—there in that place which has been called the cradle of liberty, and has proved to be the grave of the Constitution. We understand our own business, we understand our own affairs, we understand our relations to these other States, and we intend to provide while we have time for our own security; but that man slanders us who says that we are disunionists; that man slanders us who says that we are dissatisfied with the form of Government under which we live; that man slanders us who says that we are now, or have at any other time been, impelled to the course of action which we are taking by any feeling except the most serious apprehension that our safety demands it.

The Senator from Illinois [Mr. Douglas], when we asked for bread, offered us a stone. When we asked for a fish he gave us a serpent. When we asked for additional guaranties he got up here to explain to us that we had nothing to complain of; that nineteen-twentieths of the negroes who run away from any of the border States are returned; and that we, down on the Gulf, are making a hullabaloo about a matter that does not concern us; and that even in the border States they have nothing to complain of. That was his statement. He denies that the people of the South are dissatisfied as to his squatter sovereignty doctrine. He will not say whether he would amend the Constitution or not. He wants us to act by bill. He wishes us to indulge here in the child's play of introducing bills upon this question, spending weeks and months in discussion, while these States, one after another, are walking out of the Union and establishing their relations with each other and with foreign powers.

You tell us that our course is very unreasonable. Suppose it is. You have got to deal with our folly; and I say to you that you have got to yield to our foolish determination of having the principle of equality between the States recognized or Texas certainly goes out of this Union. What, sir, are we to live with a ban upon us? Are we to be taboo; are we to have the mark of Cain upon our brow without the protection which it gave to him? Are we to be told that we are not your equals; that the property which we hold is not property; and that, wherever this Government, which we organized, has jurisdiction, it shall not only not protect our property, but will confiscate it; and should we be freemen if we submitted?

ever said or intimated that the Wide-Awakes were to be kept organized, disciplined, and uniformed, or associated at all to secure the fruits of this victory. I think I may say safely that I never could have delivered anything which could have borne such a construction.

SENATOR WIGFALL.—Mr. President, the denial of the Senator, of course, is all that I could ask. I saw him so reported, and have seen it frequently. This Wide-Awake association has itself produced an immense deal of excitement and bitter feeling. Whether the Senator from New York said what has been ascribed to him or not would not be a matter of any moment further than he is concerned. That he did not say it I am now, of course, convinced. But that this pretorian band is organized; that its members do undergo military drill; that it is a military organization, no man who has looked upon them, as I did this last summer, and heard their regular military tramp, does or can doubt.

The non-slaveholding States have nominated and elected their candidate. Tell me not that we have got the legislative department of this Government, for I say we have not. As to this body, where do we stand? Why, sir, there are now eighteen non-slaveholding States. In a few weeks we shall have the nineteenth, for Kansas will be brought in. Then the arithmetic which settles our position is simple and easy. Thirty-eight Northern Senators you will have upon this floor. We shall have thirty to your thirty-eight. After the 4th of March the Senator from California [Mr. Latham], the Senator from Indiana [Mr. Bright], the Senator from New Jersey [Mr. Thomson], and the Senator from Minnesota [Mr. Rice] will be here. That reduces the Northern phalanx to thirty-four.

KINGSLEY S. BINGHAM [Mich.].—Douglas.

SENATOR WIGFALL.—What?

SENATOR BINGHAM.—Douglas.

SENATOR WIGFALL.—*Non tali auxilio nec defensoribus istis, tempus eget.*¹ [Laughter.] There are four of the Northern Senators upon whom we can rely, whom we know to be friends, whom we have trusted in our days of trial heretofore, and in whom, as Constitution-loving men, we will trust. Then we stand thirty-four to thirty-four, and your Black Republican Vice-President to give the casting vote. Mr. Lincoln can make his own nominations with perfect security that they will be confirmed by this body, even if every slaveholding State should remain in the Union, which, thank God, they will not do. You

¹"Neither of such help nor of these defenders do the times have need."

have elected your President, and you can inaugurate him; and we will have neither lot nor parcel in this matter.

Senators, some of them, have spoken of the excitement of the South. I tell you the excitement has passed off, the fever has subsided, and the patient has collapsed. So far as this Union is concerned the cold sweat of death is upon it. Your Union is now dead; your Government is now dead. It is to-day but lying in state, surrounded, it is true, by pomp and ceremony. They are, Senators, but the mournful ceremonies, pomps, and pageants which are seen around the mighty dead. The spirit has departed, and it has gone back to those who gave it—the sovereign States of this Union. There is now in the Gulf States no excitement. There is a fixed, determined will that they will be free; and men who come here and talk about wishing to preserve this Union by way of avoiding what they call precipitate action tell us that we are to be hung if we dare be free. The Senator from Illinois has declared, in his celebrated Norfolk speech, that he was going to hang the President of the Opposition party if that President should beat him and not administer the Government according to his notions. He was then going to hang all the Virginians who attempted to act upon his "great principle of the right of self-government." You talk about hanging; about States committing treason; about enforcing the laws; and doing all sorts of things. Sir, the constitution of South Carolina was adopted on the 26th of March, 1776. That was before the Declaration of Independence. On the 26th day of March, 1776, the inhabitants of South Carolina became a people; they then became vested with sovereignty; they then asserted their right to self-government.

The present constitution of South Carolina, for obeying which her citizens are to be hanged, contains this oath, which has been taken by every officer in that State:

"I do solemnly swear (or affirm) that I will be faithful and true allegiance bear to the State of South Carolina, so long as I may continue a citizen thereof."

Now, Senators, you are dealing with a sovereign State. You talk about hanging men who obey their oaths.

Those people do not believe that they are citizens of the United States. I do not believe that they are citizens of the United States. I do not believe that I owe allegiance to the United States. I believe that I owe allegiance to my State; and to that State that allegiance shall be recognized, and the obligation fulfilled to the letter of the law.

the other day by the Senator from Georgia [Mr. Iverson], "with bloody hands to hospitable graves." You may conquer them; you may trail that palmetto banner in the dust; but you will never reduce that people to slavery. No, sir; South Carolina may be made a graveyard of freemen, but, before God, it will never be the habitation of slaves. [Manifestations of applause in the galleries.]

When you know that the citizens of that State have sworn allegiance to it, and are bound, on their oaths, to obey the behests of their sovereign; when you know that that State is going out of the Union, is there any sense, is there any justice, is there any humanity, in attempting to keep her in it? You talk about enforcing the laws! There is no man who would go further for enforcing the laws within the limits of the United States that I would; and as long as South Carolina remains in the Union the laws should be enforced there; and I hazard the assertion that there will be no necessity for enforcing them; they will be obeyed. I judge that when her minister visits this court and presents his credentials that State will wait until that question has been acted upon; and not until her right to secede is denied, and authoritatively denied, will she insist that the federal troops shall be removed from those forts which she has ceded to the Union.

I regretted extremely to see that the President of the United States was laboring under a misapprehension as to the title by which these forts are held and the consideration for which they were ceded to the United States. I will not weary the Senate by reading further from the records which establish these great historical facts, but I state that, from the Declaration of Independence, and a year before it, until the year 1805, South Carolina was the possessor of all that soil upon which those forts are erected. In 1805 she ceded, voluntarily, to the United States, without money and without price, those forts, upon two conditions only: that they should be kept in repair, and be garrisoned by the Federal Government. She, previously to that time, ceded all that territory, without money and without price, upon which the great and gallant States of Mississippi and Alabama have been erected. Then, having ceded for Federal purposes the land upon which these forts are erected, she appointed commissioners, and out of her own treasury paid for having the land surveyed, and, as appears from a letter from the engineer who was sent there to examine the forts, when this Government had not the money to make the repairs, the citizens of Charleston voluntarily raised the necessary money in order to have the repairs made.

When South Carolina became one of the States of this Union that oath of allegiance and fealty to the State of South Carolina was upon her statute-book and in her constitution. These other States confederated with her, knowing that her citizens were bound to swear allegiance to their own State. There was more than this oath of allegiance which they swore:

"I do acknowledge the State of South Carolina is, and of right ought to be, a free, independent, and sovereign State." "And I do further swear that I will bear faith and true allegiance to the said State, and, to the utmost of my power, will support, maintain, and defend!"—

What?

"the freedom and independence thereof."

With that oath upon the record she was admitted into this Union; and it will not do now for her sister States, or for this agency of the States, that has no power except by the permission of the States, that exercises no power except by the permission of the States, and that can be stripped of every power by those States, to deny that the people of that State are bound to obey their oaths. Those who swear to obey the Constitution of the United States and violate it laugh at oaths; but, thank God, the people among whom I have lived, and whom I represent upon this floor, have never dealt so lightly with their oaths. I say that a more monstrous outrage will not have been committed in any country than will be committed if this Government attempts coercion in any manner. It is impracticable; it is unconstitutional; it is revolutionary; and the moment that this Government, through its executive, legislative, and judicial departments, or through any of them, shall deny that these States are sovereign, and shall attempt to reduce one of the parties to the compact to the condition of a conquered province, such offence will be given to every other State as to cause them to rally to their respective standards, and rescue the Constitution from the grasp of those who would tear it up and trample it under foot.

For years past that unfortunate but gallant people have been misrepresented. Their palmetto has withered under the blighting influence of the breath of slander, and its broad leaves have been like the leaves of the funeral cypress; but, thank God, it is again spreading its branches to the sun, and, green and luxuriant, it now presents itself to the gaze of the people of the thirty-three States as in the brightest days of its glory. Sneers and scoffs will not serve your purpose. Your eighteen million will find a gallant few who will welcome them, as was well said

It is unfortunate that the President did not inform himself as to the facts before insinuating that she sold for money this property, and therefore was not entitled to claim it.

It was her voluntary gift to the United States for Federal purposes. When she ceases to be one of the United States the purposes for which she made the cession cease; and those forts, and the land upon which they have been erected, should be ceded back to the State. While these matters are negotiating I have no doubt that the State will stay her hand. But if there is an attempt, which I trust in God there may not be, to strengthen those garrisons, or in a moment of imprudence a man-of-war should be sent into that harbor, I say to you that those forts will be taken, cost it the life of every man in that State.

When some of these States that are not robbed by the loss of fugitive slaves choose not to submit longer to be confederated with States that are faithless they are answered by saying, "Why do not you wait till the States that are robbed shall resist?" Why, sir, if I and a friend happen to be passing along Pennsylvania Avenue, and both are slapped in the face, and, in addition to the indignity, the purse of my friend is also taken from him, does his submission devolve upon me any duty also to submit? Because robbery has not been added to insult and perjury and perfidy, South Carolina and Georgia and Florida and Alabama and Mississippi and Texas and Arkansas are not to complain!

This sort of logic we do not understand in that section of the country. Our misapprehension, doubtless, is the result of the "barbarism of slavery."¹ In that country there are men who, even in this utilitarian age, are not dead to all sentiment; who defend with the hazard of their lives and with their blood their personal honor; and will be as ready to defend the honor of their States as they are their individual respectability. It is the declaration of divine justice that he who sheds man's blood shall have his blood shed by man; and I say that he who taints the blood more kills than he who sheds it. That proud State that I am speaking of—and I speak of her because she has no representative upon this floor, and because she is about to act, and because there has been an effort to isolate her from her sisters—has not heretofore, and will not hereafter, show any insensibility to that which touches her honor. Her citizens are few; they may be conquered; there may be none left to tell the story of their disaster. It does not always follow, Senators,

¹ An allusion to a speech of Senator Charles Sumner [Mass.] bearing that title.

that because a people are weak they are going to submit to tyranny.

History tells us of the King of Lacedæmon and his three hundred who died at Thermopylæ. There was an oath in Sparta as there is an oath in South Carolina. The people of South Carolina have sworn to maintain the independence and the freedom of their State. It is the law of that State. When Leonidas and his gallant three hundred fell history tells us that upon the stone which covered that gallant dead were inscribed these words, "Stranger, tell the Lacedæmonians that we lie here in obedience to their laws." In my own State there is an inscription not less touching. Upon the blood-stained stones of the Alamo there are now to be seen written these words: "Thermopylæ had her messengers of death; the Alamo had none." Those who have no sentiment; those who laugh at it; those who regard a sense of honor as one of the relics of barbarism and the incident of the institution of slavery, I know do not understand, or comprehend or appreciate the feelings which influence the people of the slaveholding States.

Thank God, there are also in the other section a gallant few—that old, glorious, Constitution-loving Democratic party—from some of whom we have, upon issues which we regarded as material, differed of late—who, I trust, will bring to the altar of the Constitution their feelings of alienation, and, sacrificing them, stand by the Constitution. If we cannot save this Union as it was originally formed by these States let it be dissolved rather than see a military despotism erected upon its ruins. There is now an effort making to erect such a despotism. The edifice is not yet completed. South Carolina, thank God! has laid her hand upon one of the pillars, and she will shake it until it totters first, and then topples. She will destroy that edifice, though she perish amid the ruins.

BENJAMIN F. WADE [O.]—Mr. President, this is a most singular state of things. Who is it that is complaining? They that have been in a minority? They that have been the subjects of an oppressive and aggressive Government? No, sir. When the leaders of the old glorious Revolution met at Philadelphia eighty-four years ago to draw up a bill of indictment against a wicked king and his ministers, they were at no loss what they should set forth as the causes of their complaint. They had no difficulty in setting them forth so that the great article of impeachment will go down to all posterity as a full justification of all the acts they did. But let us suppose that, instead of its being these old patriots who had met there to dissolve their con-

nection with the British Government, and to trample their flag under foot, it had been the ministers of the Crown, the leading members of the British Parliament, of the dominant party that had ruled Great Britain for thirty years previous. It would be said: "You who have had the Government in your own hands; you who have been the ministers of the Crown, advising everything that has been done, set up here that you have been oppressed and aggrieved by the action of that very Government which you have directed yourselves." Instead of a sublime revolution, the uprising of an oppressed people, ready to battle against unequal power for their rights, it would have been an act of treason.

What has caused this great excitement that undoubtedly prevails in a portion of our country? If the newspapers are to be credited there is a reign of terror in all the cities and large towns in the Southern portion of this community that looks very much like the reign of terror in Paris during the French revolution. There are acts of violence that we read of almost every day, wherein the rights of Northern men are stricken down, where they are sent back with indignities, where they are scourged, tarred, feathered, and murdered, and no inquiry made as to the cause. I do not suppose that the regular Government, in times of excitement like these, is really responsible for such acts. I know that these outbreaks of passion, these terrible excitements that sometimes pervade a community, are entirely irrepressible by the law of the country. I suppose that is the case now; because if these outrages against Northern citizens were really authorized by the State authorities there, were they a foreign government, everybody knows, if it were the strongest government on earth, we should declare war upon her in one day.

But what has caused this great excitement? Sir, I will tell you what I suppose it is. I do not (and I say it frankly) so much blame the people of the South; because they believe, and they are led to believe by all the information that ever comes before them, that we, the dominant party to-day, who have just seized upon the reins of this Government, are their mortal enemies, and stand ready to trample their institutions under foot. They have been told so by our enemies at the North. Their misfortune, or their fault, is that they have lent a too easy ear to the insinuations of those who are our mortal enemies, while they would not hear us.

What is it of which complaint is made? You have had the legislative power of the country and you have had the Executive

of the country. You own the Cabinet, you own the Senate, and, I may add, you own the President of the United States as much as you own the servant upon your own plantation. [Laughter.] It is perfectly impossible for you now to point out any act of which the Republican party can possibly be guilty, of which you complain; because at no period yet have they had the power of making any rule or regulation or law that could, by possibility, affect you; and, therefore, I understand that when Senators rise up here to justify the overthrow of this Government, to break it up, to resolve it into its original elements, they do so upon the mere suspicion that the Republican party may somehow affect their rights or violate the Constitution.

Sir, what doctrines do we hold detrimental to you? Are we the setters forth of any new doctrines under the Constitution of the United States? I tell you nay. There is no principle held to-day by this great Republican party that has not had the sanction of your Government in every department for more than seventy years. You have changed your opinions. We stand where we used to stand. That is the only difference. Upon the slavery question, the only doctrine you can find touching it in our platform or our action, the only position we occupy in regard to it, is that formerly occupied by the most revered statesmen of this nation. Sir, we stand where Washington stood, where Jefferson stood, where Madison stood, where Monroe stood. We stand where Adams and Jackson, and even Polk, stood. That revered statesman, Henry Clay, of blessed memory, with his dying breath asserted the doctrine that we hold to-day. Why, then, are we held up before the community as violators of your rights? You have come in too late in the day to accuse us of harboring these opinions.

Then, sir, as there is nothing in the platform on which Mr. Lincoln was elected of which you complain, I ask, is there anything in the character of the President-elect of which you ought to complain? Has he not lived a blameless life? Did he ever transgress any law? Has he ever committed any violation of duty of which the most scrupulous can complain? Why, then, your suspicions that he will?

This brings me, sir, to the question of compromises. On the first day of this session a Senator rose in his place and offered a resolution for the appointment of a committee to inquire into the evils that exist between the different sections, and to ascertain what can be done to settle this great difficulty! That is the proposition, substantially. I tell the Senator that I know of no difficulty; and as to compromises, I had supposed that we

were all agreed that the day of compromises was at an end. The most solemn compromises we have ever made have been violated without a whereas. Since I have had a seat in this body, one of considerable antiquity, that had stood for more than thirty years, was swept away from your statute-books. When I stood here in the minority arguing against it; when I asked you to withhold your hand; when I told you it was a sacred compromise between the sections, and that when it was removed we should be brought face to face with all that sectional bitterness that has intervened; when I told you that it was a sacred compromise which no man should touch with his finger, what was your reply? That it was a mere act of Congress—nothing more, nothing less—and that it could be swept away by the same majority that passed it. That was true in point of fact, and true in point of law; but it showed the weakness of compromises. Now, sir, I only speak for myself; and I say that, in view of the manner in which our compromises have been heretofore treated, I should hardly think any two of the Democratic party would look each other in the face and say "compromise" without a smile. [Laughter.] A compromise to be brought about by act of Congress, after the experience we have had, is absolutely ridiculous.

Sir, it would be humiliating and dishonorable to us if we were to listen to a compromise by which he who has the verdict of the people in his pocket should make his way to the presidential chair. When it comes to that you have no government; anarchy intervenes; civil war may follow it; all the evils that may come to the human imagination may be consequent upon such a course as that. The moment the American people cut loose from the sheet anchor of free government and liberty—that is, whenever it is denied in this Government that a majority fairly given shall rule—the people are unworthy of free government. Sir, I know not what others may do; but I tell you that, with the verdict of the people given in favor of the platform upon which our candidates have been elected, so far as I am concerned, I would suffer anything to come before I would compromise that away. I regard it as a case where I have no right to extend comity or generosity. A right, an absolute right, the most sacred that a free people can ever bestow on any man, is their undisguised, fair verdict that gives him a title to the office that he is chosen to fill! and he is recreant to the principle of free government who will ask a question beyond the fact whether a man has the verdict of the people, or if he will entertain for a moment a proposition in addition to that. It is all I

want. If we cannot stand there we cannot stand anywhere. Any other principle than that would be as fatal to you, my friends, as to us. On any other principle anarchy must immediately ensue.

I say, then, that so far as I am concerned I will yield to no compromise. Many of you stand in an attitude hostile to this Government; that is to say, you occupy an attitude where you threaten that, unless we do so and so, you will go out of this Union and destroy the Government. I say to you, for myself, that, in my private capacity, I never yielded to anything by way of threat, and in my public capacity I have no right to yield to any such thing; and therefore I would not entertain a proposition for any compromise; for, in my judgment, this long, chronic controversy that has existed between us must be met, and met upon the principles of the Constitution and laws, and met now. I hope it may be adjusted to the satisfaction of all; and I know no other way to adjust it, except that way which is laid down by the Constitution of the United States. Whenever we go astray from that we are sure to plunge ourselves into difficulties. The old Constitution of the United States, although commonly and frequently in direct opposition to what I could wish, nevertheless, in my judgment, is the wisest and best Constitution that ever yet organized a free government; and by its provisions I am willing, and intend, to stand or fall. Like the Senator from Mississippi, I ask nothing more. I ask no ingrafting upon it. I ask nothing to be taken away from it. Under its provisions a nation has grown faster than any other in the history of the world ever did before in prosperity, in power, and in all that makes a nation great and glorious. It has ministered to the advantages of this people; and now I am unwilling to add or take away anything till I can see much clearer than I can now that it wants either any addition or lopping off.

There is one other subject about which I ought to say something. On that side of the Chamber you claim the constitutional right, if I understand you, to secede from the Government at pleasure, and set up an adverse government of your own; that one State, or any number of States, has a perfect constitutional right to do it. Sir, I can find no warrant in the Constitution for any doctrine like that. In my judgment it would be subversive of all constitutional obligation. If this is so, we really have not now, and never have had, a Government; for that certainly is no Government of which a State can do just as it pleases, any more than it would be of an individual. How can a man be said to be governed by law if he will obey the law or not just as he

to collect the revenue of ships entering her ports, precisely in the same way and to the same extent that he does now in every other State of the Union. What follows? Why, sir, if he shuts up the ports of entry so that a ship cannot discharge her cargo there or get papers for another voyage, then ships will cease to trade; or, if he undertakes to blockade her, and thus collect it, she has not gained her independence by secession. What must she do? If she is contented to live in this equivocal state all will be well, perhaps; but she cannot live there. No people in the world could live in that condition. What will they do? They must take the initiative and declare war upon the United States; and the moment that they levy war force must be met by force; and they must, therefore, hew out their independence by violence and war. There is no other way under the Constitution that I know of whereby a Chief Magistrate of any politics could be released from this duty. If this State, though seceding, should declare war against the United States, I do not suppose there is a lawyer in this body but what would say that the act of levying war is treason against the United States. That is where it results. We might just as well look the matter right in the face.

The Senator from Texas says we will force you to an ignominious treaty up in Faneuil Hall. Well, sir, you may. We know you are brave; we understand your prowess; we want no fight with you; but, nevertheless, if you drive us to that necessity, we must use all the powers of this Government to maintain it intact in its integrity. If we are overthrown we but share the fate of a thousand other governments that have been subverted. If you are the weakest, then you must go to the wall; and that is all there is about it.

On December 18 John J. Crittenden [Ky.] introduced a plan of compromise. This was:

1. The restoration of the Missouri Compromise, extending the line of demarcation between free and slave territory to the eastern boundary of California, with the proviso that a Territory on either side might come into the Union free or slave as its people voted.
2. That the Constitution be amended to prohibit abolition of slavery in the District of Columbia so long as slavery existed in Maryland and Virginia, or prohibit it in places under the federal jurisdiction which were situated in slave States.
3. That the Senate shall declare that the Fugitive Slave

sees fit? It puts you out of the pale of government, and reduces this Union of ours, of which we have all boasted so much, to a mere conglomeration of States, to be held at the will of any capricious member of it. As to South Carolina, I will say that she is a small State; and probably, if she were sunk by an earthquake to-day, we would hardly ever find it out, except by the unwonted harmony that might prevail in this Chamber. [Laughter.] But I think she is unwise. I would be willing that she should go her own gait, provided we could do it without an example fatal to all government; but, standing here in the highest council of the nation, my own wishes, if I had any, must be under the control of my constitutional duty.

I acknowledge, to the fullest extent, the right of revolution, if you may call it a right, and the destruction of the Government under which we live, if we are discontented with it, and on its ruins to erect another more in accordance with our wishes. I believe nobody at this day denies the right; but they that undertake it undertake it with this hazard: if they are successful, then all is right, and they are heroes; if they are defeated, they are rebels.

I do not say this because I apprehend that any party intends to make war upon a seceding State. I only assert their right from the nature of the act, if they see fit to do so; but I would not advise nor counsel it. I should be very tender of the rights of a people, if I had full power over them, who are about to destroy a government which they deliberately come to the conclusion they cannot live under; but I am persuaded that the necessities of our position compel us to take a more austere ground, and hold that if a State secedes, although we will not make war upon her, we cannot recognize her right to be out of the Union, and she is not out until she gains the consent of the Union itself; and that the Chief Magistrate of the nation, be he who he may, will find under the Constitution of the United States that it is his sworn duty to execute the law in every part and parcel of this Government; that he cannot be released from that obligation; for there is nothing in the Constitution of the United States that would warrant him in saying that a single star has fallen from this galaxy of stars in the Confederacy. He is sworn not to know that a State has seceded, or pay the least respect to their resolutions that claim they have. What follows? Not that we would make war upon her, but we should have to exercise every Federal right over her if we had the power; and the most important of these would be the collection of the revenues. It will be incumbent on the Chief Magistrate to proceed

Law is constitutional, and that no amendment shall be made to it which shall impair its efficiency.

4. That the proposed and the existing amendments to the Constitution in regard to slavery be declared unalterable.

5. That laws be passed to make effectual the prohibition of the slave trade.

6. That the Senate recommend to the State legislatures to repeal the personal liberty laws impeding the execution of the Fugitive Slave Act.

Senator Crittenden pleaded with the Senators to rise above partisanship and sectional interest and to legislate for the Union.

The great difficulty, sir—particularly with the gentlemen from the North—is the admission of this line of division for the territory, and the recognition of slavery on the one side, and the prohibition of it on the other.

Now, gentlemen of the North, in view of the great events which are present before you, and of the mighty consequences which are just now to take effect, is it not better to settle the question by a division upon the line of the Missouri Compromise? For thirty years we lived quietly and peacefully under it. Our people, North and South, were accustomed to look at it as a proper and just line. Can we not do so again? You can give increased stability to this Union; you can give it an existence, a glorious existence, for great and glorious centuries to come, by now setting it upon a permanent basis, recognizing what the South considers as its rights; and this is the greatest of them all. Is it not the cheapest price at which such a blessing as this Union was ever purchased? You think, perhaps, or some of you, that there is no danger, that it will but thunder and pass away. Do not entertain such a fatal delusion. I tell you it is not so. I tell you that as sure as we stand here disunion will progress. I fear it may swallow up even old Kentucky in its vortex—as true a State to the Union as yet exists in the whole Confederacy—unless something be done.

History is to record us. Is it to record that, when the destruction of the Union was imminent; when we saw it tottering to its fall; when we saw brothers arming their hands for hostility with one another, we stood quarreling about points of party politics. While we stand thus, showing our inferiority to the great and mighty dead, the country may be destroyed and ruined; and to the amazement of all the world the great Repub-

lie may fall prostrate and in ruins, carrying with it the very hope of that liberty which we have heretofore enjoyed; leaving behind, in place of the peace we have enjoyed, nothing but revolution and havoc and anarchy. Can it be that our name is to rest in history with this everlasting stigma and blot upon it?

Sir, I wish to God it was in my power to preserve this Union by agreeing to give up every conscientious opinion I hold. I might not be able to discard it from my mind; I am under no obligation to do that. I may retain the opinion, but if I can do so great a good as to preserve my country and give it peace, and its institutions and its Union stability, I will forego any action upon my opinions. Well, now, my friends [addressing the Republican Senators], that is all that is asked of you. Consider it well, and I do not distrust the result. As to the rest of this body, the gentlemen from the South, I would say to them, can you ask more than this? Are you bent on revolution, bent on disunion? God forbid it. I cannot believe that such madness possesses the American people. I can speak with confidence only of my own State. Old Kentucky will be satisfied with it, and she will stand by the Union and die by the Union if this satisfaction be given. Nothing shall seduce her. The clamor of no revolution, the seductions and temptations of no revolution, will tempt her to move one step. She has stood always by the side of the Constitution; she has always been devoted to it, and is this day. Give her this satisfaction, and I believe all the States of the South that are not desirous of disunion as a better thing than the Union and the Constitution will be satisfied and will adhere to the Union, and we shall go on again in our great career of national prosperity and national glory.

SENATOR HALE.—I listened last week, with a good deal of pleasure, to the long, able, erratic speech of the distinguished Senator from Texas [Mr. Wigfall]. If it had no other merit—and I do not mean to say that it had not a great many others—it was explicit. What he wants is that we, Northern men representing the successful party, go home and teach our people certain things.

I have also listened to the honorable Senator from Kentucky [Mr. Crittenden] to-day; and from my recollection of the speech of the honorable Senator from Texas, and comparing it with that of the honorable Senator from Kentucky to-day, I should judge, as the old theologians say, that they do not belong to the same "see" of politics. The demands which are put forth to-day as being sufficient to produce quiet, restore harmony, and preserve "this glorious Union" are of an entirely different character

Senator Crittenden's resolutions were referred to the Powell Committee of Thirteen.

Andrew Johnson [Tenn.] also proposed, as a solution of the present difficulties, certain amendments to the Constitution, guaranteeing that the rights of the States, especially in regard to slavery, would not be interfered with. He said:

Conceding, for argument's sake, the doctrine of secession, and admitting that the State of South Carolina is now upon your coast, a foreign power, absolved from all connection with the Federal Government, out of the Union; what then? There was a doctrine inculcated in 1823, by Mr. Monroe, that this Government, keeping in view the safety of the people and the existence of our institutions, would permit no European power to plant any more colonies on this continent. Now, suppose that South Carolina is outside of the Union, and this Government is in possession of the fact that she is forming an alliance with a foreign power—with France, with England, with Russia, with Austria, or with all of the principal powers of Europe; that there is to be a great naval station established there; an immense rendezvous for their army, with a view to ulterior objects, with a view of making advances upon the rest of these States; let me ask the Senate, let me ask the country, if they dare permit it? Under and in compliance with the great law of self-preservation we dare not let her do it; and if she were a sovereign power to-day, outside of the Union, and was forming an alliance that we deemed inimical to our institutions, and the existence of our Government, we should have a right to conquer and hold her as a province—a term which is so much used with scorn.

Can any one believe that, in the creation of this Government, its founders intended that it should have the power to acquire territory and form it into States, and then permit them to go out of the Union?

Take the case of Louisiana. What did we pay for her in 1803, and for what was she wanted? Just to get Louisiana into the Union? Just for the benefit of that particular locality? Was not the mighty West looked to? Was it not to secure the free navigation of the Mississippi? Yes, the navigation of that river was wanted. Simply for Louisiana? No, but for all the States. The United States paid \$15,000,000, and France passed the country to the United States. It remained in a territorial condition for a while, sustained and protected by the strong arm

from those proposed by the honorable Senator from Texas. The honorable Senator from Texas spoke for the Union wing of his party. My desire is to know which of these two distinguished Senators represents the demands that are to be made upon our people at home in order to secure this Union; because it has been said, and well said, that we cannot do it here; it must be done by our people. Well, sir, in the communication which I have with the people that I represent, when I talk to them and represent to them that, if they accede to the propositions and demands made by the honorable Senator from Kentucky to-day, the Union may be preserved and harmony restored, and some one then gets up and flings in my face the eloquent speech of the Senator from Texas, altogether different in its demands, and covering a vastly broader field of concession, I want to know whether then I may be permitted to say, "the honorable Senator from Kentucky represents the real, genuine, *bona fide* sentiments of the Union-loving people of the South; and the honorable Senator from Texas, where he differs from him, does not"; or shall I be compelled to say that the patriotic effusion of the honorable Senator from Kentucky is simply the effusion of his own benevolent and patriotic heart, but does not embody the demands and sentiments of the Southern people, and that they are more correctly presented in the speech of the honorable Senator from Texas?

After we have got an answer from the Union Senators on that side of the Chamber, if there are any disunionists I should like to hear from them; and I should like to know whether those that favor disunion are willing to abide by the conditions which have been announced by one of the Union members from that side—I refer to the honorable Senator from Texas.

WILLARD SAULSBURY [Del.].—I am one of the Union Senators on this floor; and my State is in favor of the preservation of the Union. I, for one, am willing to accept the proposition presented by the Senator from Kentucky. I now ask the Senator from New Hampshire whether he will recommend the adoption of the propositions submitted by the Senator from Kentucky to his people, provided he is assured that that will preserve the Union of the States?

SENATOR HALE.—I was inquiring for information; and the honorable Senator from Delaware must have misunderstood my interrogatory, because I said that the honorable Senator from Texas had represented himself as one of the strongest Union men on that side of the Chamber, and I desired to hear from the disunionists, if there were any such.

of the Federal Government. And now that this great valley is filled up; now that the navigation of the Mississippi is one hundred times more important to the nation than it was then; it is proposed that Louisiana shall go out of the Union! In 1815, when her shores were invaded; when her city was about to be sacked; when her booty and her beauty were about to fall a prey to British aggression, the brave men of Tennessee, and of Kentucky, and of the surrounding States, rushed into her borders and, under the lead of their own gallant Jackson, drove the invading forces away. And now, after all this, Louisiana says to the other States, "We will go out of this Union; we do not care if you did fight our battles; we do not care if you did acquire the free navigation of this river from France; we will go out if we think proper, and constitute ourselves an independent power, and bid defiance to the other States." It is an absurdity; it is a contradiction; it is illogical; it is not deducible from the structure of the Government itself.

JOHN SLIDELL [La.].—I wish to say to the Senator that I do not know a citizen of any Southwestern State bordering on the Mississippi who does not acknowledge the propriety and necessity of extending to every citizen of the country whose streams flow into the Mississippi the free navigation of the river and the free interchange of all of the agricultural products of the valley of the Mississippi. Such a course is dictated not only by every consideration of justice, but by the recognized and well-understood interests of the Southwestern States. On this point I can speak with entire confidence of the sentiment of Louisiana.

SENATOR JOHNSON.—That may all be very true; and I do not suppose that, at this moment, there is a citizen in the State of Louisiana who would think of obstructing the free navigation of the river; but are not nations controlled by their interests in varying circumstances? It strikes me so; and hereafter, when a conflict of interest arises; when difficulty may spring up between two separate powers, Louisiana, having the control of the mouth of the river, might feel disposed to tax our citizens going down there. It is a power that I am not willing to concede to be exercised at the discretion of any authority outside of this Government.

Senator Johnson then read extracts from the speeches of Governor Gist and Representative Keitt of South Carolina [see page 270] to show the proposed policy of that State to force the border States into the Confederacy.

We are told that certain States will go out and tear this accursed Constitution into fragments, and drag the pillars of this mighty edifice down upon us, and involve us all in one common ruin. Will the border States submit to such a threat? No. If they do not come into the movement the pillars of this stupendous fabric of human freedom and greatness and goodness are to be pulled down, and all will be involved in one common ruin. Such is the threatening language used. "You shall come into our confederacy, or we will coerce you to the emancipation of your slaves." That is the language which is held toward us.

We in the South have complained of and condemned the position assumed by the Abolitionists. We have complained that their intention was to hem slavery in, so that, like the scorpion when surrounded by fire, if it did not die from the intense heat of the scorching flames, it would perish in its own poisonous skin. Now, our sister, without consulting her sisters, without caring for their interest or their consent, says that she will move forward; that she will destroy the Government under which we have lived, and that hereafter, when she forms a government or a constitution, unless the border States come in, she will pass laws prohibiting the importation of slaves into her State from those States, and thereby obstruct the slave trade among the States, and throw the institution back upon the border States, so that they will be compelled to emancipate their slaves upon the principle laid down by the Abolition party. That is the rod held over us!

I tell our sisters in the South that so far as Tennessee is concerned she will not be dragged into a Southern or any other confederacy until she has had time to consider; and then she will go when she believes it to be her interest, and not before. I tell our Northern friends, who are resisting the execution of the laws made in conformity with the Constitution, that we will not be driven on the other hand into their confederacy, and we will not go into it unless it suits us, and they give us such guaranties as we deem right and proper. We say to you of the South we are not to be frightened and coerced. Oh, when one talks about coercing a State, how maddening and insulting to the State; but, when you want to bring the other States to terms, how easy to point out a means by which to coerce them! But, sir, we do not intend to be coerced.

There are many ideas afloat about this threatened dissolution, and it is time to speak out. The question arises in reference to the protection and preservation of the institution of slavery, whether dissolution is a remedy or will give to it pro-

tection. I avow here, to-day, that if I were an Abolitionist, and wanted to accomplish the overthrow and abolition of the institution of slavery in the Southern States, the first step that I would take would be to break the bonds of this Union, and dissolve this Government. I believe the continuance of slavery depends upon the preservation of this Union and a compliance with all the guaranties of the Constitution. I believe an interference with it will break up the Union; and I believe a dissolution of the Union will, in the end, though it may be some time to come, overthrow the institution of slavery. Hence we find so many in the North who desire the dissolution of these States as the most certain and direct and effectual means of overthrowing the institution of slavery.

What protection would it be to us to dissolve this Union? What protection would it be to us to convert this nation into two hostile powers, the one warring with the other? Whose property is at stake? Whose interest is endangered? Is it not the property of the border States? Yes; slavery would commence to retreat southward the very moment this Government was converted into hostile powers, and you made the line between the slaveholding and non-slaveholding States the line of division.

Then what remedy do we get for the institution of slavery? Must we keep up a standing army? Must we keep up forts bristling with arms along the whole border? This is a question to be considered, one that involves the future; and no step should be taken without mature reflection.

Again: if there is one division of the States, will there not be more than one? I heard a Senator say the other day that he would rather see this Government separated into thirty-three fractional parts than to see it consolidated. I am opposed to the consolidation of Government, and I am as much for the reserved rights of States as any one; but, rather than see this Union divided into thirty-three petty governments, with a little prince in one, a potentate in another, a little aristocracy in a third, a little democracy in a fourth, and a republic somewhere else; a citizen not being able to pass from one State to another without a passport or a commission from his government; with quarreling and warring among the little petty powers, which would result in anarchy; I would rather see this Government to-day converted into a consolidated government. It would be better for the American people; it would be better for our kind; it would be better for humanity; better for Christianity; better for all that tends to elevate and ennoble man, than breaking up this splendid, this magnificent, this stupendous fabric of human

you have stood by the Constitution, and we can risk you; but we cannot risk these agitators and fanatics who have brought all this trouble upon the land."

On December 20 the Vice-President, John C. Breckinridge [Ky.] announced the names of those whom he had appointed on the Committee of Thirteen. Senator Powell was appointed chairman.

On the same day George E. Pugh [O.] replied to his colleague, Senator Wade.

My colleague seems to imagine it the duty of the President, under his oath of office, to precipitate our whole country into civil war. He said that the President had sworn not to know that any State had seceded, or attempted to secede. Well, sir, I should like to be informed whereabouts an affidavit of such ignorance has been recorded. I am not advised of anything like it. The President is under obligation, assuredly, to execute the laws of the land; but can we not suspend the execution of any law upon the statute-book? Can we not suspend it for a week, or a month, or six months, or six years, if the attempt to execute it, by force of arms, will provoke interminable war? In this regard, also, I commend the counsels of John Quincy Adams. He did not imagine, while he occupied the presidential chair, that he was under any obligation to provoke, or to accept, such dire extremity. He did not believe that the Constitution of the United States bound him, inevitably, to precipitate the country into civil war. On the contrary, in his special message of February 5, 1827, on the case of surveys of public lands ordered by the Georgia legislature in opposition to the authority of Congress, Mr. Adams said:

Intimations had been given the surveyors that, should they meet with interruption, they would, at all hazards, be sustained by the military force of the State; in which event, if the military force of the Union should have been employed to enforce its violated law, a conflict must have ensued, which would, in itself, have inflicted a wound upon the Union, and have presented the aspect of one of these confederated States at war with the rest. Anxious, above all, to avert this state of things, yet at the same time impressed with the deepest conviction of my own duty to take care that the laws shall be executed, and the faith of the nation preserved, I have used of the means intrusted to the Executive for that purpose only those which, without resorting to military force, may vindicate the sanctity of the law by the ordinary agency of the judicial tribunals."

And yet, sir, what was a case in which the Government was striving to maintain the plighted faith of a treaty, as against

government, the most perfect that the world ever saw, and which has succeeded thus far without a parallel in the history of the world.

I tell our Northern friends that the constitutional guaranties must be carried out; for the time may come when, after we have exhausted all honorable and fair means, if this Government still fails to execute the laws, and protect us in our rights, it will be at an end. Gentlemen of the North need not deceive themselves in that particular; but we intend to act in the Union and under the Constitution, and not out of it. We do not intend that you shall drive us out of this house that was reared by the hands of our fathers. It is our house. We have a right here; and because you come forward and violate the ordinances of this house I do not intend to go out; and if you persist in the violation of the ordinances of the house we intend to eject you from the building and retain the possession ourselves.

JOSEPH LANE [Ore.]—The Senator from Tennessee is concerned about the navigation of the Mississippi River. He says that the great State of Tennessee and he, himself, are concerned about the navigation of that river. I believe it is recognized as the law of nations, as the law of all civilized nations, that a great inland sea running through several governments shall be open equally to all of them; and, besides, as the honorable Senator from Louisiana said, there is no man in Louisiana that would think for a moment of depriving Tennessee of the right of navigating that great river. No, sir, nor Kentucky, either, nor Indiana, nor Illinois, nor any other State whose waters flow into that mighty stream. No such thing would ever be done. On the contrary, if they should go out of the Union—and that is not a matter for me to decide—I am sure that comity and good faith and proper regulations would exist and prevail between them and all the powers owning territory upon that great river.

Indeed, sir, if a dissolution of this Union shall take place I look to the day when every one of those great Northwestern States shall become a portion of that Southern confederacy. They will not remain with that portion of this country that has agitated this question in season and out of season, in the school-house, and in the church, until they have poisoned the Northern mind. I have no idea that they will remain with the people that have brought so much trouble on so great a country as this. They would say, "you of the South have never attempted to encroach on the rights of any Northern State; you have never said that a State shall not come in without slavery; you have always voted to bring in free States; you have been just in all things;

infraction by one of the States. When my colleague, or the Senator from Tennessee, assumes, therefore, to treat the act of persons bearing the commission of South Carolina as if it were only the act of individuals, I entreat them to consider the pertinent suggestions of Mr. Adams in a similar case. Such acts cannot be viewed as the acts of individual and solitary transgressors, but as the acts of persons obeying the mandates of a sovereignty, and to an extent (which they believe, at least) it is binding upon them.

It will end in war; begin as it may, it will end in war. This idea of my colleague, that the Constitution of the United States, *ex proprio vigore*,¹ compels the Executive, and even compels Congress, to engage in hostilities with a part of our own people; it is amazing to me, and utterly revolting. Why, sir, we have absolute discretion whether to declare war or to maintain peace in regard to foreign nations. If our citizens are abused, if our territory is invaded, or even possessed, by hostile array, we, the Congress of the United States, consisting of a Senate and a House of Representatives, may, if we deem it essential to our own interests, decline to authorize hostilities. Does any one deny that? Why, then, are we told that we have not as much liberty in deciding questions of war and peace with our fellow-citizens in South Carolina as in deciding such questions with foreign nations—a war, too, in which, if my colleague be right, the unfortunate captives are not to be treated as we treat prisoners of another nation, but are to be executed in the most ignominious manner? Mr. President, I have not words to express my abhorrence of such a conclusion.

It is the lesson of history that whenever a man would commit some atrocity without being responsible to his own conscience he styles it doing God service. Persecutors, in all time, have burned or slain the body of their victim in order, as they alleged, to save his soul. What no Senator would do, upon his own responsibility, or from his own inclination—draw the sword upon a whole community of our people, scatter desolation and carnage throughout a State which, be her conduct ever so unjustifiable, has, at least, some cause of complaint—must it occur as if by the inexorable laws of fate? Where, in our senatorial oath, can such an obligation be distinguished? No, sir; we cannot avoid the responsibility of such calamities, if they should occur, by charging it upon the Constitution of the United States, or upon our oath of office. We will be responsible for bloodshed, for civil war, for anarchy, if we do not avoid them. We can

¹ "Of its own force."

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If my colleague has truly expressed the determination of his and my constituents I shall esteem it no loss, but an eminent and glorious distinction, to retire from public service while the flag of the Union yet floats above this Capitol, and calls together, in annual session, the ambassadors and representatives of thirty-three independent, free, and equal sovereignties. Let me, at least, no more frequent this palace after its proud genius shall have departed; lest where now, in niche and upon column, or station, or pediment, I behold the sculptured effigies of past glory, there blaze forth, as by some horrible enchantment, from stony eyes and distorted features, the demon of discord and fraternal strife; while, instead of gorgeous inscriptions to the Union displayed on every side—above, beneath, and around—I see only the fingers of a man's hand writing over against the candlestick, upon the plaster of the wall, such dreadful words as pronounced the doom of Babylon:

"God hath numbered thy kingdom, and finished it; thou art weighed in the balances, and art found wanting; thy kingdom is divided, and given to the Medes and Persians."

Alfred O. P. Nicholson [Tenn.] replied to his colleague, Senator Johnson, and to Senator Wade. He charged upon the Republican party all responsibility for the enmity felt at the South against the North. All that the South has to rest upon, he said, is the professions of a sectional party whose general principle is to disregard the rights of the States other than their own. If this party gains control of the Government they will abolish slavery in the District of Columbia, the Federal arsenals, dockyards, etc., in the South, and will refuse to admit new slave States. The trouble is not so much that the Fugitive Slave Law is not enforced or that the equality of the States is denied, but that a *principle* is laid down which denies the title of Southern men to property which they claim under the Constitution, and which thus strikes at the very root of the whole Southern social organization. In view of this he claimed that the only safety for the South in the Union was to demand constitutional guaranties against encroachments on slavery and for protecting slavery in the States where it existed. The border States in particular would meet in consultation and present to the North the demands agreed upon, such as the recognition of property in slaves and the right to

avoid them; but our responsibility we cannot avoid—responsibility to God and our country, and to all the civilized world.

Mr. President, I am for peace, and not for war; least of all, for a war so unnatural as this would be. I am for conciliation; and therefore, in good faith, will stand at the side of my honorable friend from Kentucky [Mr. Crittenden] and earnestly endeavor to keep the door of compromise open as long as possible. Others may debate the abstract right, as they call it, of a State to secede; but my voice shall not engage in a clamor so dreadful. I esteem the path I have chosen to be the path of safety for all the States, and therefore the path of wisdom; not, indeed, that wisdom by which the people are sometimes betrayed, under specious phrases and soft pretexts, to their own ruin, kindling their hearts with hatred, and staining their hands with blood; but that wisdom founded upon humane thoughts, by which nations continue to flourish and long maintain their liberties. I am opposed to the scheme, under what name soever disguised, of plunging our country into the abyss of violence, anarchy, and fatal dismemberment.

Senators, I did hope, fondly hope, that instead of refusing to accept terms of conciliation and honorable compromise; instead of madly provoking whole States and millions of people to what some of you call treason and rebellion; instead of giving them and ourselves to destruction upon the fatal conceit that our oaths to support the Constitution of the United States do not even allow us to pause in the presence of an unexampled crisis, we should all have agreed, ere this, in the adoption of measures calculated to stay the alarm which now pervades the country, and threatens our Union with perpetual overthrow. There is yet time; but time is very precious. Let us determine, first of all, that we will have no war, no bloodshed, if we are able in any manner to avoid it. War is no remedy in such a case; it is always a horrible visitation—horrible when waged for the best and holiest cause; but horrible indeed, and inexpressibly wicked, when waged without any cause, and by one portion of our people against another. Let us not hesitate to suspend the execution of whatever laws cannot be executed, at present, without violence; submit, if necessary, to a diminution of revenue; and thus, or further, if necessary, through acts of generous confidence, avoid all dangers of collision between Federal and State authorities, soothe apprehension everywhere, and be enabled calmly to proceed, by constitutional amendment, to the duty of securing forever the Union we shall have rescued, and ultimately restored, if not absolutely preserved.

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take them to the Territories. But, from the course of the Republican leaders, he had little hope that these demands would be recognized.

He argued that any resort to force by the Federal Government against South Carolina was equivalent to a declaration of war against the *people* of that State, and that this was not warranted, since, whatever their individual opinions might be about the right or expediency of secession, they were bound to obey the acts of their constituted authorities who had taken the State out of the Union and released them from all allegiance to any other sovereignty if any such other sovereignty, indeed, had ever existed.

He drew a picture of the horrors of civil war, and therefore urged calmness and consideration on the part of the South, expressing the hope of a more perfect union at no distant day.

On December 27 James R. Doolittle [Wis.] spoke in reply to Senator Lane.

Mr. President, the Senator from Oregon [Mr. Lane] seemed to complain with great feeling that the Republican party were denying the equality of the States in the Territories of the Union, purchased with common blood and common treasure. Now, sir, I stand here to say that, if the Constitution of the United States gives to the slaveholder the right to carry slaves as property into the Territory, it follows, of necessity, that he has a right to have his property protected there. I will not admit a right and at the same time deny the remedy. But I deny the right altogether, in the Mexican territories, under the Constitution, as construed by the Dred Scott case even. You must consent to allow free Territories to remain free. We stand pledged not to interfere, directly or indirectly, with your institutions in the States where they exist. Upon these grounds we can have peace—permanent, perpetual peace.

Albert G. Brown [Miss.] replied to Senator Doolittle.

The Senator from Wisconsin said that the Republican policy was to do perfect justice to the South, and to give them equal privileges with themselves; and that they would not deprive the South of anything but what they deprived themselves of. That

looks very fair in its presentation. I desire to illustrate his mode, if he will allow me. It reminds me of the fable written by *Æsop*. The fox invited the stork to dine with him. The stork has a very long bill. The fox had nothing but soup, and it was spread out on a flat dish. Said the fox: "Perfect equality, Mr. Stork; help yourself." The stork could not get a mouthful; and the fox lapped it all up. The next day the stork said: "Come over, Mr. Fox, and dine with me." The fox went. The stork had had mince meat put in long-necked jars; and said he: "Mr. Fox, perfect equality; I do not want to deprive you of anything but what I deprive myself of; help yourself." The fox could not get a single mouthful and the stork put in his long bill and ate it all up. And so it is with the principles the Senator seeks to establish and spread over the Territory. He does not want to deprive us of anything but what he would deprive himself of; still, he establishes a rule which he knows no Southern man will submit to, and which will exclude every Southern man.

My friend, the Senator from Vermont [Jacob Collamer], said: "Our object in it is to surround you; to cramp in slavery; to put a cordon of free States around it; so that you will be forced to emancipate your slaves." The object of the free-soil movement, and the only motive that actuates you in advocating it to-day, is, that you may force us to emancipate the slaves. And how? Either to make them unprofitable or dangerous; one or the other of which, you think, will induce us to liberate them and turn them loose.

Now, Mr. President, this is not right, as brethren of the same Confederacy. We were known to be slaveholding States. All but one held slaves and why should we be excluded from the common territory, bought with a common treasure, defended by the common army, and as many brave men from the one section as the other? When it is thus acquired, ought any rule to be established which would be like the invitation of the fox to the stork to dine with him; to say to us, it is perfect equality?

I contend for the right of a State to secede. The pretext, or the justification, or the reason for her secession is a matter for herself to judge, not for me. The Senator from Wisconsin is a little at fault when he says to contend for the right of secession admits the right of expulsion. Secession results from the fact that they are in by consent and can go out by consent. Expulsion would be against consent, and is just the opposite of the principle of secession.

SENATOR DOOLITTLE.—The Senator from Missouri compares

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all these by arms? Perhaps you will tell me you will remove him elsewhere for trial. Not so; our fathers have not left our liberties so unguarded and so unprotected as that. The Constitution originally provided that no man could be brought to trial for an offence out of the State where he committed it. The fathers were not satisfied with it, and they added an amendment that he should not be brought to trial out of the district even in which he had committed it. You cannot take him out of the district. You have got no judge, no marshal, no attorney, no jurors there; and, suppose you had, who is to adjudge, who is to convict? His fellow-citizens, unanimous in opinion with him, determine that he has done his duty and has committed no guilt. That is the way you are going to execute the laws against treason!

What next? Oh, no, says the Senator from Ohio [Mr. Wade], that is what we will do; we will execute the laws to collect revenue by blockading your ports and stopping them up. At first blush this seems a very amusing mode of collecting revenue in South Carolina, by allowing no vessels to come in on which revenue can be collected. It is the strangest of all possible fancies that that is the way of collecting revenue there, of enforcing the laws in the State against individuals. But first you are to have no war. And what is blockade? Does any man suppose that blockade can exist by a nation at peace with another; that it is a peace power; that it can be exercised on any other ground than that you are at war with the party whose ports you blockade; and that you make proclamation to all the governments of the earth that their vessels shall not be authorized to enter into these ports because you are reducing your enemy by the use of regularly constituted, recognized, warlike means? Oh, but perhaps it is not a blockade that you will have; you will have an embargo, that is what you mean. We are guarded here again. The Constitution heads you off at every step in this Quixotic attempt to go into a State to exercise your laws against her whole citizens without declaring war or coercing the State. You cannot embargo the ports of one State without embargoing all your ports; you cannot shut up one without shutting up all; the Constitution of the United States expressly forbids it. If your blockade or your embargo were a peaceful measure, you are prohibited by the very words of the Constitution itself from forcing a vessel bound to or from one State to enter or clear or pay duties in another, or from making any regulations of commerce whatever, giving any preference to the ports of one State over the ports of another;

what I said to the invitation of the fox to the stork to come to the feast. Let us look into history a little and see. Sir, we acquired Florida: which was the fox and which was the stork at that feast? We acquired the Louisiana Territory, and gave you two-thirds of all the good land there. Who had the advantage when invited to that entertainment? After you had got your full share, and we were about to enjoy that portion which was expressly reserved for us, just as we were ready to partake of it and enjoy it—what then? You snatched at it and undertook to take it from us by force.

On December 31 the Committee of Thirteen reported that they had not been able to agree on any general plan of adjustment of the difficulties between the two sections of the country.

Judah P. Benjamin [La.] then declared that, owing to an irreconcilable difference of opinion on the constitutional relation of the States to the Federal Government it would be impossible to form any such plan.

Gentlemen deny that a citizen of South Carolina is bound to obey the orders of his Government. To that I reply, in the language of Vattel, that no citizen of any State has the right to question that; that it is a principle of the law of nations that the citizen owes obedience to the command of his sovereign, and he cannot enter into the question whether the sovereign's order is lawful or unlawful, except at his peril. If his sovereign engages in war—if his State declares her independence—he is bound by the action of his State, and has no authority to control it. Why, Mr. President, how idle and absurd would be any other proposition! How idle and absurd to suppose that you can, in principle and in practice, separate each particular individual of a State and make him responsible for the collective act of his Government—each agent in turn.

Sir, if there was anything in this idea in theory, you might reduce it to practice; but what can be more absurd, more vague, more fanciful than the suggestions put out by gentlemen here? You are going now, observe, to declare no war and to coerce no State; you are simply going to execute the laws of the United States against individuals in the State of South Carolina. That is your proposition. Is it serious? One gentleman says he will hang for treason. Ah, where is the marshal to seize, and where is the court to try, where is the district attorney to prosecute, and where is the jury to convict? Are you going to establish

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and you have no more right to blockade or close the ports of South Carolina by embargo, even by act of Congress, than you have to declare that a sovereign State shall have no right to have more than one Senator on this floor. Your blockade is impracticable, unconstitutional, out of the power of the President.

What is this idea of executing the laws by armed force against individuals? Gentlemen seem to suppose—and they argue upon the supposition—that it is possible, under the Constitution of the United States, for the President to determine when laws are not obeyed and to force obedience by the sword, without the interposition of courts of justice. Does any man have such an idle conceit as that? Does he suppose that, by any possible construction, the power of the Federal Congress to call out the militia and to use the army and the navy to suppress insurrection and to execute the laws, means that the President is to do it of his own volition and without the intervention of the civil power? The honorable Senator from Tennessee [Mr. Johnson] the other day called upon us to look at the example of Washington, who put down rebellion in Pennsylvania. He said well that he was no lawyer when he cited that General Washington called forth the militia of Pennsylvania and of other States to aid in executing the laws, upon a requisition by a judge of the Supreme Court of the United States certifying to him that the marshal was unable to carry out the judgments of the court.

SENATOR JOHNSON.—I understood that very well.

SENATOR BENJAMIN.—Then what on earth do you mean by saying that you will go into a State and execute the laws of the United States against individuals without a judge or jury there, without a marshal or attorney, with nobody to declare the violation of law, or to order its execution before you attempt to enforce it? The Senator may not have intended to assume such a position. He has been unfortunate in the impressions that he has produced upon the country.

But, sir, other means are suggested. We cannot go to war; we are not going to war; we are not going to coerce a State. "Why," says the Senator from Illinois [Mr. Douglas], "who talks of coercing a State; you are attempting to breed confusion in the public mind; you are attempting to impose upon people by perverting the question; we mean to execute the laws only against individuals." Again, I say, where will be the civil process which must precede the action of the military force? Surely, surely it is not at this day that we are to argue that

neither the President nor the President and Congress combined are armed with the powers of a military despot to carry out the laws, without the intervention of the courts, according to their own caprice and their own discretion, to judge when laws are violated, to convict for the violation, to pronounce sentence, and to execute it. You can do nothing of the kind with your military force.

But it is suggested, and the President is weak enough to yield to the suggestion, that you will collect your revenue by force—by the action of the power of the Federal Government on individuals. Has anybody followed this out practically? Is it possible?

You will put your collector on board of a man-of-war in the harbor; and there you will make everybody pay duties before the goods are landed. That is the next proposition, that nobody sees any practical difficulty about. But, sir, it is totally impracticable—totally impossible. Take a case. A citizen of New York owns a vessel which loads with a cargo of assorted merchandise, part free, part owing duty, and consigns it to Charleston. He enters the harbor. Under the law he is obliged to make entry of his vessel, to produce his manifest, to go through certain other formalities. He goes on board your ship-of-war, sees the collector, and complies with the orders. What next? There are no duties paid yet, and the man who has a right to the free goods has no duties to pay. You cannot prevent him from going to the wharf and discharging them. There is no law to be executed there against an individual. But I will take it for granted that the whole cargo is a duty-paying cargo, and all belongs to one man, who does not mean to pay your duties. You are no better off. The man declines to enter his cargo. What is the law? The master of the vessel wants to go away. He is entitled by law to report to the collector that he is ready to deliver his cargo, that nobody is there to enter it, and that he demands that his cargo be discharged, and put in public store; and, under that, he may go upon his new voyage; and you cannot change that, unless you change the law for all the ports of the United States. Or he may go further: the importer may go to the collector and say: "I want to enter my cargo in warehouse"; and he gives a bond signed by himself and a solvent fellow-citizen, that they will pay the duty when he takes the goods out of the warehouse. Then you must let him put those goods into the custom-house warehouse; and you cannot change that law either, without changing it for the whole United States; because you cannot, under the Constitution, by any regulation of

and dangerous as possible; that it is right and proper and justifiable, under the Constitution, to prevent our mere transit across a sister State, to embark with our property on a lawful voyage, without being openly despoiled of it. You assert, and practice upon the assertion, that it is right to hold us up to the ban of mankind in speech, writing, and print, with every possible appliance of publicity, as thieves, robbers, murderers, villains, and criminals of the blackest dye, because we continue to own property which we owned at the time that we all signed the compact; that it is right that we should be exposed to spend our treasure in the purchase, or shed our blood in the conquest, of foreign territory, with no right to enter it for settlement without leaving behind our most valuable property, under penalty of its confiscation. You practically interpret this instrument to me that it is eminently in accordance with the assurance that our tranquillity and welfare were to be preserved and promoted; that our sister States should combine to prevent our growth and development; that they should surround us with a cordon of hostile communities for the express and avowed purpose of accumulating in dense masses, and within restricted limits, a population which you believe to be dangerous, and thereby force the sacrifice of property nearly sufficient in value to pay the public debt of every nation in Europe.

This is the construction of the instrument that was to preserve our security, promote our welfare, and which we only signed on your assurance that that was its object. You tell us that this is a fair construction—not all, some say one thing, some say another; but you act, or your people do, upon this principle. You do not propose to enter into our States, you say, and what do we complain of? You do not pretend to enter into our States to kill or destroy our institutions by force. Oh, no. You imitate the faith of Rhadamistus, who, according to Tacitus's account, having sworn to Mithridates that he would not employ either poison or steel against him, caused him to be smothered under a heap of clothes. You propose simply to close us in an embrace that will suffocate us. You do not propose to fell the tree; you promised not. You merely propose to girdle it, that it dies. And then, when we tell you that we did not understand this bargain this way, that your acting upon it in this spirit releases us from the obligations that accompany it; that under no circumstances can we consent to live together under that interpretation, and say: "we will go from you; let us go in peace"; we are answered by your leading spokesmen: "Oh, no; you cannot do that; we have no objection to it personally,

commerce, give any preference to the ports of one State over those of another.

Mind you, you are at peace; you are not coercing a State; you are merely executing the laws against individuals! You cannot do it without breaking up your whole warehouse system; you cannot do it without breaking up your whole commercial system in every port of the Confederacy. Your goods are ashore; they are in Government warehouses; but you have not got the duties. A rush upon the warehouse and the goods are taken out. You have got a bond, but you have no court to sue it in; and, if you had, you would have no jury to forfeit it, because the jury would be told by the court, or, at all events, by the lawyers who defended the defendant, that the Government had no right to collect that bond; that it was a usurpation which required him to give the bond.

This whole scheme, this whole fancy, that you can treat the act of a sovereign State, issued in an authoritative form, and in her collective capacity as a State, as being utterly out of existence; that you can treat the State as still belonging collectively to the Confederacy, and that you can proceed, without a solitary Federal officer in the State, to enforce your laws against private individuals is as vain, as idle, and delusive as any dream that ever entered into the head of man. The thing cannot be done. It is only asserted for the purpose of covering up the true question, than which there is no other: you must acknowledge the independence of the seceding State, or reduce her to subjection by war.

Now, Mr. President, I desire not to enter in any detail into the dreary catalogue of wrongs and outrages by which South Carolina defends her position; that she has withdrawn from this Union because she has a constitutional right to do so, by reason of prior violations of the compact by her sister States.

The wrongs under which the South is now suffering, and for which she seeks redress, seem to arise chiefly from a difference in our construction of the Constitution. You, Senators of the Republican party, assert, and your people whom you represent assert, that, under a just and fair interpretation of the Federal Constitution, it is right that you deny that our slaves, which directly and indirectly involve a value of more than four thousand million dollars, are property at all, or entitled to protection in Territories owned by the common Government. You assume the interpretation that it is right to encourage, by all possible means, directly and indirectly, the robbery of this property, and to legislate so as to render its recovery as difficult

but we are bound by our oaths; if you attempt it, your people will be hanged for treason. We have examined this Constitution thoroughly; we have searched it out with a fair spirit, and we can find warrant in it for releasing ourselves from the obligation of giving you any of its benefits, but our oaths force us to tax you; we can dispense with everything else; but our consciences, we protest upon our souls, will be sorely worried if we do not take your money." [Laughter.] That is the proposition of the honorable Senator from Ohio, in plain language. He can avoid everything else under the Constitution, in the way of secession; but how is he to get rid of the duty of taking our money he cannot see. [Laughter.]

Now, Senators, this picture is not placed before you with any idea that it will act upon any one of you, or change your views, or alter your conduct. All hope of that is gone. Our committee has reported this morning that no possible scheme of adjustment can be devised by them all combined. The day for the adjustment has passed. If you would give it now, you are too late.

And now, Senators, within a few weeks we part to meet as Senators in one common council chamber of the nation no more forever. We desire, we beseech you, let this parting be in peace. I conjure you to indulge in no vain delusion that duty or conscience, interest or honor, imposes upon you the necessity of invading our States or shedding the blood of our people. You have no possible justification for it. I trust it is in no craven spirit, and with no sacrifice of the honor or dignity of my own State, that I make this last appeal, but from far higher and holier motives. If, however, it shall prove vain, if you are resolved to pervert the Government framed by the fathers for the protection of our rights into an instrument for subjugating and enslaving us, then, appealing to the Supreme Judge of the universe for the rectitude of our intentions, we must meet the issue that you force upon us as best becomes freemen defending all that is dear to man.

What may be the fate of this horrible contest, no man can tell, none pretend to foresee; but this much I will say: the fortunes of war may be adverse to our arms; you may carry desolation into our peaceful land, and with torch and fire you may set our cities in flames; you may even emulate the atrocities of those who, in the war of the Revolution, hounded on the blood-thirsty savage to attack upon the defenceless frontier; you may under the protection of your advancing armies, give shelter to the furious fanatics who desire, and profess to desire, nothing more than to add all the horrors of a servile insurrection to the

calamities of civil war; you may do all this—and more, too, if more there be—but you never can subjugate us; you never can convert the free sons of the soil into vassals, paying tribute to your power; and you never, never can degrade them to the level of an inferior and servile race. Never! Never! [Loud applause in the galleries.]

Edward D. Baker [Ore.] replied to Senator Benjamin:

It is my purpose to reply, as I may, to the speech of the honorable and distinguished Senator from the State of Louisiana. I do so because it is, in my judgment at least, the ablest speech which I have heard, perhaps the ablest I shall hear, upon that side of the question, and in that view of the subject; because it is respectful in tone and elevated in manner; and because, while it will be my fortune to differ from him upon many, nay, most of the points to which he has addressed himself, it is not, I trust, inappropriate for me to say that much of what he has said, and the manner in which he has said it, have tended to increase the personal respect—nay, I may say the admiration—which I have learned to feel for him. And yet, sir, while I say this, I am reminded of the saying of a great man—Dr. Johnson, I believe—who, when he was asked for his critical opinion upon a book just then published, and which was making a great sensation in London, said: "Sir, the fellow who has written that has done very well what nobody ought ever to do at all."

The entire object of the speech is, as I understand it, to offer a philosophical and constitutional disquisition to prove that the Government of these United States is, in point of fact, no government at all; that it has no principle of vitality; that it is to be overturned by a touch; dwindled into insignificance by a doubt; dissolved by a breath; not by maladministration merely, but in consequence of organic defects, interwoven with its very existence.

But, sir, this purpose—strange and mournful in anybody, still more so in him—this purpose has a terrible significance now and here. In the judgment of the honorable Senator, the Union is this day dissolved; it is broken and disintegrated; civil war is a consequence at once necessary and inevitable. Standing in the Senate Chamber he speaks like a prophet of woe. The burden of the prediction is the echo of what the distinguished gentleman now presiding in that chair has said before—[Mr. Iverson in the chair]—"Too late! too late!" The gleaming and lurid lights of war flash around his brow even while he

I remark, next, that this proposition is in no wise new; and perhaps for that, as it is a constitutional proposition, it is all the better; and, again, the argument by which the honorable Senator seeks to maintain it is in no wise new in any of its parts. I have examined with some care the arguments hitherto made by great men, the echoes of whose eloquence yet linger under this dome; and I find that the proposition, the argument, the authority, the illustration are but a repetition of the famous discussion led off by Mr. Calhoun and growing out of the attempt of South Carolina to do before what she says she has done now.

Here the speaker opposed to Senator Calhoun's views those of James Madison in his letter of March 15, 1833, to Daniel Webster,¹ and of President Jackson and John Quincy Adams.

President Adams said:

Another mistake which (speaking with great deference) I think is obvious throughout the whole speech of the Senator from Louisiana, is the assumption, not only that the Constitution is a compact, but that the States parties to it are sovereigns. Sir, they are not sovereign; and this Federal Government is not sovereign. Paraphrasing the Mahometan expression, "there is but one God," I may say, and I do say, not without reverence, there is but one sovereign, and that sovereign is the people. The State government is its creation; the Federal Government is its creation; each supreme in its sphere; each sovereign for its purpose; but each limited in its authority, and each dependent upon delegated power. Why, sir, can that State—either Oregon or South Carolina—be sovereign which relinquishes the insignia of sovereignty, the exercise of its highest powers, the expression of its noblest dignities? Not so. We can neither coin money, nor levy impost duties, nor make war, nor peace, nor raise standing armies, nor build fleets, nor issue bills of credit. In short, sir, we cannot do—because the people, as sovereigns, have placed that power in other hands—many, nay, most, of those things which exhibit and proclaim the sovereignty of a State to the whole world. Mr. Webster has well observed that there can be in this country no sovereignty in the European sense of sovereignty. It is, I believe, a feudal idea. It has no place here. I repeat, we are not sovereign here. They are not sovereign in South Carolina; they are not, and cannot be in the nature of the case; and, therefore, all assumptions and all presumptions arising out of the proposition of sovereignty—supremacy

¹ For Madison's theory of State Rights see page 14ss.

speaks. And, sir, if it were not for the exquisite amenity of his tone and his manner, we could easily persuade ourselves that we saw the flashing of the armor of the soldier beneath the robe of the Senator.

My purpose is far different; sir, I think it is far higher. I desire to contribute my poor argument to maintain the dignity, the honor of the Government under which I live and beneath whose august shadow I hope to die. I propose, in opposition to all that has been said, to show that the Government of the United States is in very deed a real, substantial power, ordained by the people, not dependent upon States; sovereign in its sphere; a union, and not a compact between sovereign States; that, according to its true theory, it has the inherent capacity of self-protection; that its Constitution is a perpetuity, beneficent, unfalling, grand; and that its powers are equally capable of exercise against domestic treason and against foreign foes. Such, sir, is the main purpose of my speech; and what I may say additional to this will be drawn from me in reply to the speech to which I propose now to address myself.

Sir, the argument of the honorable Senator from Louisiana is addressed first—I will not say mainly—to establish the proposition that the State of South Carolina, having, as he says, seceded, has seceded from this Union rightfully; and, sir, just here he says one thing, at least, which meets my hearty approval and acquiescence. He says he does not deem it—such is the substance of the remark—unwise or improper to argue the right of the case even now and here. In this I agree with him most heartily. Right and duty are always majestic ideas. They march an invisible guard in the van of all true progress; they animate the loftiest spirit in the public assemblies; they nerve the arm of the warrior; they kindle the soul of the statesman, and the imagination of the poet; they sweeten every reward; they console every defeat. Sir, they are of themselves an indissoluble chain which binds feeble, erring humanity to the eternal throne of God. I meet the discussion in that spirit. I defer to that authority. I observe, sir, first, that the argument of the gentleman, from beginning to end, is based upon the assumption that the Constitution of the United States is a compact between sovereign States. Arguing from thence, he arrives at the conclusion that, being so, a compact, when broken by either of the other States, or by the general Government, the creature of the Constitution, South Carolina or Louisiana may treat the compact as broken, the contract as rescinded; may withdraw peacefully from the Union, and resume her original condition.

upon the part of a State—are fallacies from beginning to end.

In arguing upon the meaning and import of the Constitution I had hoped that a lawyer so distinguished as the gentleman from Louisiana would have referred to the terms of that document to have endeavored at least to find its real meaning from its force and mode of expression. In the absence of such a quotation I beg leave to remind him that the Constitution itself declares by whom it was made and for what it was made. Mr. Adams, reading it, declares that the Constitution of the United States was the work of one people—the people of the United States—and that those United States still constitute one people; and to establish that, among other things, he refers to the fact—the great, the patent, the glorious fact—that the Constitution declares itself to have been made by the people, and not by sovereign States, but by the people of the United States; not a compact, not a league, but it declares that the people of the United States do ordain and establish a government. Now, I ask the distinguished Senator what becomes of this iteration and reiteration that the Constitution is a compact between sovereign States?

Pursuing what I think is a defective mode of reasoning from beginning to end, the distinguished Senator from Louisiana quotes Vattel, and for what? To prove what, as I understand, nobody denies: that a sovereign State, being sovereign, may make a compact and afterwards withdraw from it. Our answer to that is, that South Carolina is not a sovereign State; that South Carolina has not made a compact, and that, therefore, it is not true that she can withdraw from it; and I submit that all these disquisitions upon the nature of European sovereignty, or any of those forms of government to which the distinguished author which he has quoted had his observation attracted, form no argument whatever in a controversy as to the force and meaning of our Constitution bearing upon States, sovereign in some sense; not sovereign in others, but bearing most upon individuals in their individual relations.

But the object of the speech was twofold. It was to prove first, that this Union was a compact between States, and that, therefore, there was a rightful remedy for injury, intolerable or otherwise, by secession. Now, sir, I confess in one thing I do not understand this speech, although it be clearly written and forcibly expressed. Does the Senator mean to argue that there is such a thing as a constitutional right of secession? Is it a right under the Constitution, or is it a right above it and beyond it?

SENATOR BENJAMIN.—I will take example from gentlemen

on the other side and I will answer his question by asking another. I will ask him if the State of South Carolina were refused more than one Senator on this floor, whether she would have a right to withdraw from the Union, and, if so, whether it would arise out of the Constitution or not.

SENATOR BAKER.—Now, Mr. President, I will do what the distinguished Senator from Louisiana has not done: I will answer the question [laughter]. First, I think South Carolina ought to inquire what is the cause of that refusal. I believe this body is the judge of the qualification of its own members. If the Senator was disqualified, or if, in any fair judgment or reasonable judgment, we believed he ought not to occupy a seat upon this floor, surely it would not be cause of withdrawal or secession, or revolution, or war, if we were to send him back.

But, sir, I will meet the question in the full spirit in which, I suppose, it is intended to put it. It is this: the right of representation is a sacred right. If that right is fraudulently and pertinaciously denied has the State to which it is denied a right to secede in consequence thereof? I answer, the right of representation is a right, in my judgment, inalienable. It belongs to all communities, and to all men. It is of the very nature and essence of free government; and if, by force, by despotism of the many over the few, it is denied, solemnly, despotically, of purpose, the intolerable oppression resulting from that may be repelled by all the means which God and nature have put in our hands. Is the honorable Senator answered?

SENATOR BENJAMIN.—Not yet. I asked the Senator whether he denied the fact that, in the supposed case, which he has very fairly met, the right to withdraw resulted from the breach of the agreement in the Constitution, and would be a right growing out of the violation of the Constitution, independent of the question of oppression at all?

SENATOR BAKER.—The right of South Carolina to withdraw because the fundamental right of representation is denied her is the right of revolution, of rebellion. It does not depend upon constitutional guarantees at all. It is beyond them, above them, and not of them. Now, is the Senator answered?

SENATOR BENJAMIN.—I am fully answered. I am only surprised at the answer.

SENATOR BAKER.—Now, will the distinguished Senator answer me? Is there such a thing as a constitutional right of South Carolina to secede?

SENATOR BENJAMIN.—I thought, Mr. President, that my proposition on that subject could not be mistaken. I hold that

with that answer he intends to abide, so be it. I think that we have well disposed of the right of secession under the Constitution itself. I advance to another proposition.

I admit that there is a revolutionary right. Whence does it spring? Why, sir, as a right in communities, it is of the same nature as the right of self-preservation in the individual. The question that arises between us at once is: how must it be exercised? In a case, and in a case only, where all other remedies fail; where the oppression is grinding, intolerable, and permanent; where revolution is in its nature a fit redress; and where they who adopt it as a remedy can do it in the full light of all the examples of the past; of all the responsibilities of the present; of all the unimpassioned judgment of the future, and the ultimate determination of the Supreme Arbiter and Judge of all. Sir, a right so exercised is a sacred right. I maintain it; and I would exercise it. The question recurs: has South Carolina that right?

The gentleman from Louisiana says that the wrongs under which the State of South Carolina groans, the injuries which justify and demand revolution, are to be found "chiefly in a difference of our construction of the Constitution." Sir, is not that a "lame and impotent conclusion"? Why, sir, can it be that any man in his sober senses will pretend that there can be cause for revolution, war, because two parties in this Government differ as to their construction of one article in the Federal Constitution?

SENATOR BENJAMIN.—The Senator will pardon me. We have eight or ten grievances; because you all construe the Constitution on the erroneous principles you have announced this morning.

SENATOR BAKER.—Well, sir, let it be "two rogues in buckram," or seven; the idea is the same. Now, sir, suppose we differed about a dozen articles of the Constitution: what then? I read the catalogue of wrongs and I find, as a lawyer, that they must refer themselves principally to one. But suppose there are more: what then? Does not the honorable Senator remember that, although he may have one construction of the Constitution and I may have another, there is between us a supreme arbiter, and that upon every conceivable clause about which we may differ, or have differed, that arbiter has decided always upon one, and that the Southern, side?

Here the speaker mentioned the two principles of the Dred Scott decision, the return of fugitive slaves, and the admission of slavery into the Territories.

there is, from the very nature of the Constitution itself, from the theory upon which it is formed, a right in any State to withdraw from the compact, if its provisions are violated to her detriment.

SENATOR BAKER.—Does the right to secede spring out of and belong to the Constitution? And, if so, where? I am a strict constructionist.

SENATOR BENJAMIN.—I am, too; and, if the Senator will admit with me, what I suppose he will scarcely deny, that the States have reserved to themselves under the Constitution, by express language, every right not expressly denied to them by the Constitution, I say that he will find in the ninth and tenth amendments to the Constitution the recognition of the very right which I claim.

SENATOR BAKER.—Well, sir, the answer to that is just this: that we have been endeavoring to show—and I think irresistibly—that, so far from its being true that the States do reserve to themselves in the Constitution all rights not delegated by it, they do not reserve anything, for they are not parties to it; and there is no such thing as a reservation by the States at all. The instrument is made by the people; and the reservations, if any, are made by the people, not the States. Every authority which I have read, every argument at which I have glanced, from Jackson, from Madison, from Webster, from Adams, all unite in the proposition that still this is a Government made by the people of the United States, in their character of people of the States, being one Government by them ordained.

SENATOR BENJAMIN.—I ask the Senator whether, after the Constitution had been framed, amendments were not proposed by nearly all the States and adopted, for the very purpose of meeting that construction for which he is now contending; for the very purpose of maintaining the proposition against which he now argues. If the right of secession exists at all, under any circumstances, revolutionary or not, it is a State right. Now, the question whether it exists under the Constitution or not can be determined only in one way, first, by examining what powers are prohibited to the State, and, next, whether the powers not prohibited are reserved. This power is nowhere prohibited; and the tenth amendment declares that the powers not prohibited by the Constitution to the States are reserved to the States.

SENATOR BAKER.—Mr. President, I do not perceive the importance, nay, the profit, of pursuing that line of inquiry any further. I have asked for the answer of the honorable Senator to that question; and if with that answer he is content, and if

There are the two points; and, as the honorable Senator asks me questions, I will ask him another. Is there any other cause of complaint, except under these two clauses of the Constitution, belonging to the constitutional controversy?

SENATOR BENJAMIN.—I enumerated six. If the Senator will do me the honor to read the complaints which I made in behalf of the South, he will find them. Then, if those are not sufficient, I can furnish half a dozen more.

SENATOR BAKER.—Mr. President, I may remark that those other causes of grievance which, upon an occasion so solemn as that presented by the Senator the other day, were not mentioned in that category, were best left unsummed. If they were not of sufficient importance to be enumerated then, they ought not to be brought up by way of make-weight now. I hold him to his record.

SENATOR BENJAMIN.—Read.

SENATOR BAKER.—One of the six charges is that we slander you. Surely we do not do that under the Constitution. We slander you, we vilify you, we abuse you, you say. Well, that is not a constitutional difficulty [laughter]; and, if my distinguished friend will look at his "dreary catalogue," he will find that, save the two which I have mentioned, the remainder are but amplification, extension of grievances arising outside of the Constitution, from difference of sentiment, opinions, morals, or habits, and not the cause of constitutional complaint. Therefore I am not answered when he says: "Look at my catalogue."

I repeat, take the whole tenor of the speech, the complaint, the catalogue, the "dreary catalogue"; it all ends in this: that there are differences of opinion among us of sentiment. You complain of our bad morals and our bad manners; you say we rob you; you say we intend to establish a cordon of free States around you; you say that we are persistent in what we do on this point; but at last, in your better and your more candid moments, you say that the difficulty seems to arise chiefly from a difference in our construction of the Constitution.

Senator Baker then discussed the chief constitutional issue between the North and the South: the admission of slavery into the Territories. Speaking of the re-establishment of the Missouri Compromise as a concession to the North to which certain Senators from the South were inclined to agree, he said:

If you, the Senator from Louisiana, do, in your conscience, believe that an act of Congress to prohibit slavery in the terri-

tory of the United States, or in any part or parcel thereof, is in violation of the Constitution of the United States, and in derogation of the rights either of the States or the people—if, in your heart and conscience, you really do believe that, you are false and perjured when you do it. Let me add, as the language is strong, that I am quite as sure as I live that with that view the Senator never would do it.

SENATOR BENJAMIN.—Mr. President, I endeavored to make my proposition as plain as I know how to do it. I say that, under the Constitution, Congress has no power to exclude the Southern States from participation in the territory, from going there with their slave property, and there finding protection. I say that, notwithstanding the absence of all that congressional power, it is perfectly competent, and in accordance with the spirit of the Constitution, for Southern members, even by way of an act of Congress, to pledge the honor of their States that they will not avail themselves of the privilege of going into that part of the territory that is north of a particular line, and of proposing that to the people of the North as a settlement of a disputed question—not because the act of Congress would thereby be binding, under the Constitution itself, but because it would be good and authentic evidence to the people of the North of an agreement by the people of the South not to insist on that part of the Constitution which gave that right.

SENATOR BAKER.—The point of the argument is not to be evaded by any pretence that it is a mere agreement in a court of honor to do that which they have no legal and constitutional right to do. Suppose a gentleman from Alabama comes up and says: "Sir, you, the Senator from Louisiana, have voted to prohibit me from taking my slaves into the territory north of 36° 30'; what do you mean by it; have you any right to do it?" "Oh, no," the Senator says, "no right in the world; it is just a sort of legislative flourish; the exercise of a right which theoretically we do not claim; we have just done it because we hope, having done it, nobody will undo it."

I do not think the argument can be defended other than upon the ground assumed by a justice of the peace, well known to my distinguished friend from Illinois [Mr. Douglas], old Bolling Green, in answer to a little law advice that I gave him on one occasion when the Senator and I were both very young men, and (if he will excuse me for saying so) very poor lawyers. [Laughter.] Old Bolling Green, then a magistrate, came to me and said: "Baker, I want to know if I have jurisdiction in a case of slander." I put on a very important air; looked at him

steadily—looked as wise as I could, and I said to him: "Squire, you have no such authority; that is reserved to a court of general jurisdiction." "Well," said he, "think again; you have not read the law very well, or very long; try it again; now, have I not jurisdiction; can I not do it?" "No," I said, "you cannot; I know it; I have read the law from Blackstone to —; well, I have read Blackstone, and I know you cannot do it." "Now, sir," said he, "I know I can; for, by Heaven, I have done it." [Laughter.] I understand, now, that the sum total of the answer which is made to my objection as to the constitutionality of the Missouri Compromise touching the consciences of the gentlemen who proposed to pass it without power, is just the reply of my old friend Bolling Green. They say: "Theoretically we have not the power; constitutionally we have not the power; but, by Heaven, we have done it." [Laughter.]

If that be the opinion of Louisiana, of the entire South; if they have done it by their leaders, by their speeches; if they have lived by it; if, being a compact, it is an executed compact; if under it State after State has come into this Union, is it not too late for them to deny now that we are justified if we wish to adhere to that principle? Have they a right to come and say: "You are declaring slavery to be a creature of the local law, and we will justly dissolve the Union by revolution in consequence thereof"? I think that this is neither fair, nor just, nor right, nor constitutional. There is no escape.

Now, in regard to interference with slavery in the State. If it is charged that, in violation of the Constitution of the United States, we of the North or West, by any bill, resolution, or act, do in anywise interfere with the state and condition of slavery where it exists within the States of this Union, or any of them, by virtue of local law, by which alone it can be treated, we deny it.

SENATOR BENJAMIN.—The charge is not that Congress does it, but that the States do it.

SENATOR BAKER.—Very well. The great champion of the South upon this question gets up in his place in the Senate and admits that there is no ground of complaint that the Federal Government ever has attempted to interfere with the existence of slavery in the Southern States. We will get that down upon the record, and I apprehend it will be quoted before this controversy is over, again and again.

But it is said that the Northern States, the Western States, in other words, the free States, do so interfere. Again we deny it. The fact is not so. The proof cannot be made. Why, sir,

I might ask, in the first place, how can the States so interfere? Suppose Illinois were to violate all the opinions which she has manifested in her history, and desired to interfere with the existence of slavery in Virginia, how would she go about it? I have the profoundest respect for my friend as a lawyer; but I would like to know what bill he could frame by which Illinois could interfere with the existence of slavery in Virginia.

SENATOR BENJAMIN.—Mr. President, I will tell the Senator, not how they can do it by bill, but how they do it in acts. A body of men penetrated into the State of Virginia by force of arms into a peaceful village at the dead hour of night, armed with means for the purpose of causing the slaves to rise against their masters, seized upon the public property of the United States, and murdered the inhabitants. A man [John A. Andrew] was found in Massachusetts who, in public speeches, declared that he approved of that, and that the invasion was right; and the people of Massachusetts, by an enormous majority, elected him their Governor, indorsed the invasion of a sister State, indorsed the murder of the peaceful inhabitants of the State of Virginia.

SENATOR BAKER.—I asked the gentleman from Louisiana to point out to me and to the Senate, how, if the State of Illinois were desirous to interfere with the existence of slavery in Virginia, it could be done. I leave to his cooler temper and his better taste to examine how he has answered me. Why, sir, he runs off into a disquisition upon John Brown, which would not dignify a stump. Now, I submit that that is not the point between us. I hold that his answer is an acknowledgment that a free State cannot, as a State, interfere in any conceivable way with slavery in a slave State; and that being so, we advance another step. We agree now that Congress never have interfered, and that States never can.

Now, as to the interference with slavery in the States by individuals. There are people in Massachusetts and in Illinois and in Oregon who will not only violate the rights of the slave States but the rights of the free. There are people in the North who will not only steal niggers, but steal horses. There are people in the North who will not only try to burn down houses in the slave States, but who will be incendiary in the free States. It is the duty of the distinguished Senator from Louisiana and myself sometimes, as counsel, to defend such men. Nor do I know that such men or such defences are confined to the North or the West alone. I apprehend, if a grateful procession of the knaves and rascals who are indebted to the distin-

guished Senator from Louisiana for an escape from the penitentiary and the halter, were to surround him to-day, it would be difficult for even admiring friends to get near him to congratulate him upon the success of his efforts upon this floor. [Laughter.]

Now, I beg leave to say to the honorable Senator that the desire to interfere with the rights of slavery in the slave States is not the desire of the Northern people. I may say more, that in all my association with the Republican party, I have yet to find among them, from their chiefs down to their humblest private, one man who proposes to interfere with the existence of slavery in the slave States by force, by legislation, or by congressional action. I have known no such man in all my short experience, nor do I believe that the Senator from Louisiana can point out any such man.

SENATOR BENJAMIN.—If the Senator merely desires me to answer him, I will tell him that the belief of the South is, and I admit I share it, that without intending to violate the letter of the Constitution by going into States for the purpose of forcibly emancipating slaves, it is the desire of the whole Republican party to close up the Southern States with a cordon of free States for the avowed purpose of forcing the South to emancipate them.

SENATOR BAKER.—Very well, sir. See how gloriously we advance step by step. We abandon now the charge that Congress does it; we abandon now the charge that States do it; we abandon now the charge that the individual members of the Northern and Western communities as a body desire to interfere with slavery contrary to law; to violate any existing right in the slave States; but we insist tenaciously and pertinaciously on our fourth count in the indictment; and it is this—

SENATOR BENJAMIN.—The Senator, I trust, does not desire to misrepresent what I said. I understood the Senator to ask me, in relation to the Republican party, what proof I had of their desire to destroy slavery in the States. I gave it to him. I did not say that independently of that, there were not other attacks upon Southern slavery. I just this moment referred him to the direct attack of the State of Massachusetts—the State as a State. Independently of that, by the further exemplification of the State of Massachusetts, I will refer him to the fact that her legislature indorsed the vituperations of her Senator on this floor, by an enormous majority, and made that a State act; and, furthermore, that she passed a law in violation of the rights of Southern slaveholders, and all her eminent legal men are now

urging the State to repeal the law as a gross outrage upon the constitutional rights of the South.

SENATOR BAKER.—Why, Mr. President, in a State where all her eminent legal men are desirous to rectify a wrong, I do not think, if the Senator will wait a little while, there can be any very great danger. Our profession is a very powerful one; and I have never known a State in which we all agree upon a legal proposition that we could not induce her to agree to it, too.

It is now true that the great ground of complaint has narrowed itself down to this: that, as a people, we desire to circle the slave States with a cordon of free States, and thereby destroy the institution of slavery; to treat it like the scorpion girt by fire. Now, I approach that question: first, if we, a free people, really, in our hearts and consciences, believing that freedom is better for everybody than slavery, do desire the advance of free sentiments, and do endeavor to assist that advance in a constitutional, legal way, is that, I ask him, ground of separation?

SENATOR BENJAMIN.—I say, yes; decidedly.

SENATOR BAKER.—That is well. And I say just as decidedly, and perhaps more emphatically, no! And I will proceed to tell him why. It is no greater crime for a Massachusetts man or an Oregon man to circle, to girdle, and thereby kill slavery than for a Frenchman, or an Englishman, or a Mexican. It is as much a cause of war against France, or England, or Mexico, as against us.

Again, sir; how are you going to help it? How can we help it? Circle slavery with a cordon of free States! Why, if I read history and observe geography rightly, it is so girdled now. Which way can slavery extend itself that it does not encroach upon the soil of freedom? It cannot go north, though it is trying very hard. It cannot go into Kansas, though it made a convulsive effort, mistaking a spasm for strength. It cannot go south, because, amid the degradation and civil war and peonage of Mexico, if there be one thing under heaven they hate worse than another, it is African slavery. It cannot reach the islands of the sea, for they are under the shadow of France, that guards their shores against such infectious approach. Where can his slavery go that it is not now? If it go elsewhere it will go in-cursive, aggressive upon freedom. It will go by invading the rights of a nation that is inferior and that desires to be friendly. It will go in defiance of the wish and will and hope and tear and prayer of the whole civilized world. It will go in defiance of the hopes of civilized humanity all over the world. There-

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I may inquire how do they expect us to abolish the right of free speech and of free discussion?

The abuse of the right is, if you like, an evil, incident to free government; and how and why do you ask us to obviate in your case what we cannot remove in our own? Will you really make war upon us, will you really separate from us, because we cannot alter the model and frame of our free Government for which your fathers and ours fought side by side? You will not do that.

Mr. President, do gentlemen propose to us seriously that we shall stop the right of free discussion; that we shall limit the free press; that we shall restrain the expression of free opinion everywhere on all subjects and at all times? Why, sir, in our land, if there be any base enough, unreflecting enough, to blaspheme the Maker that created him, or the Savior that died for him, we have no power to stop him. If there be the most bitter, unjust, and vehement denunciation upon all the principles of morality and goodness, on which human society is based, and on which it may most securely stand, we have, for great and overruling reasons connected with liberty itself, no power to restrain it. Private character, public service, individual relations—neither these, nor age, nor sex, can be in the nature of our Government exempt from that liability to attack. And, sir, shall gentlemen complain that slavery is not made an exception to that general rule? You did that when you made what you call a compact with us. You were then emerging out of the war of Independence. Your fathers had fought for that right, and, more than that, they had declared that the violation of that right was one of the great causes which impelled them to the separation.

I submit these thoughts to gentlemen on the other side, in the candid hope that they will see at once that the attempt to require us to do for them what we cannot do for ourselves is unjust and cruel in the highest degree. Sir, the liberty of the press is the highest safeguard to all free government. It is with us, nay, with all men, like a great exulting and abounding river. It is fed by the dews of heaven, which distil their sweetest drops to form it. It gushes from the rill, as it breaks from the deep caverns of the earth. It is fed by a thousand affluents that dash from the mountain top to separate again into a thousand bounteous and irrigating rills around. On its broad bosom it bears a thousand barks. There genius spreads its purpling sail. There poetry dips its silver oar. There art, invention, discovery, science, morality, religion may safely and

fore it is that it appears to me idle—and I had almost said wicked—to attempt to plunge this country into civil war upon the pretence that we are endeavoring to circle your institution, when, if we had no such wish or desire in the world, it is circled by destiny, by Providence, and by human opinion everywhere.

There is, then, no ground of complaint against us, even if all you say be true, that we are surrounding you by a girdle, a cordon, a circle of free States. Why, you seem to me to have the same notion with an old farmer in my country who was complaining that he was not rich enough. He said he would be perfectly happy if he only had all the land that joined him. [Laughter.] It appears to me that the complaint of the honorable Senator is, that slavery does not extend everywhere, without border, or limit, or girdle, or circle in the world.

Again: does the Senator remember, when he asks us to restrain this process of circling the slave States by the settlement of free communities upon their borders, that he is asking us to do what we have no power to do by our system of government, or by our Constitution? What is the process? When slavery is circled, it is circled by the elastic, expansive power of free labor. California so circled it; Oregon so circled it. Make Arizona¹ a Territory to-day; steal Sonora² to-morrow; and there free labor will so circle it, spite of laws, spite of government.

Now, why should the Senator from Louisiana propose to dissolve with us because this is so? I would ask gentlemen on the other side: will it be any the less so if you dissolve with us? Will not our young men take their axes upon their shoulders, or their ox-whips in their hands, and drive their teams out in the wilderness upon the very edge and border of civilization, adventurous, fearless, elastic, expansive? Do you not know that we will gear up the team, put the wife and children in the wagon, and be half way there—nay, that we will seize and possess the goodly land, while you are hallooing "Pompey, Jube, Scipio, get ready and come"? That, sir—the peaceful progress of settlement and civilization—must be the real substantial ground of complaint, if there be any.

Then, sir, as for destroying the liberty of our press, as for abolishing societies formed to promote the abolition of slavery, or for any other purpose in the world, do Senators think when they ask us to do that? Sir, I ask them how? Whether they do it in their own States, it is not for me to determine. But

¹ An early form of the Indian name now known as Arizona.

² A State of Mexico on the border of the United States.

securely float. It wanders through every land. It is a genial, cordial source of thought and inspiration wherever it touches, whatever it surrounds. Sir, upon its borders there grow every flower of grace and every fruit of truth. I am not here to deny that that river sometimes overleaps its bounds. I am not here to deny that that stream sometimes becomes a dangerous torrent, and destroys towns and cities upon its bank; but I am here to say that, without it, civilization, humanity, government, all that makes society itself would disappear and the world would return to its ancient barbarism.

Sir, we will not risk these consequences, even for slavery; we will not risk these consequences even for union; we will not risk these consequences to avoid that civil war with which you threaten us; that war which you announce as deadly and which you declare to be inevitable.

Now as to territory. I will not yield one inch to secession; but there are things that I will yield, and there are things to which I will yield. It is somewhere told—and the fine reading of my friend from Louisiana will enable him to tell me where—that when Harold of England received a messenger from a brother with whom he was at variance, to inquire on what terms reconciliation and peace could be effected between brothers, he replied in a gallant and generous spirit, in a few words: "The terms I offer are the affection of a brother and the earldom of Northumberland"; "and," said the envoy, as he marched up the hall amid the warriors that graced the state of the king, "if Tosti, thy brother, agree to this, what terms will you allow to his ally and friend, Hardrada, the giant?" "We will allow," said Harold, "to Hardrada, the giant, seven feet of English ground, and if he be as they say, a giant, some few inches more"; and, as he spake, the hall rang with acclamation.

Sir, in that spirit I speak. I will yield no inch, no word, to the threat of secession, unconstitutional, revolutionary, dangerous, unwise, at variance with the heart and the hope of all mankind save themselves. To that I yield nothing, but, if States loyal to the Constitution, if people magnanimous and just, desiring a return of fraternal feelings, shall come to us and ask for peace, for permanent, enduring peace and affection, and say, "What will you grant?" I say to them, "Ask all that a gentleman ought to propose, and I will yield all that a gentleman ought to offer." I will agree to anything which is not to force upon me the necessity of protecting slavery in the name of freedom. To that I never can and never will yield.

Sir, as I approach a close, I am reminded that the honorable

Senator from Louisiana has said, in a tone which I by no means admired, "Now, gentlemen of the North, a State has seceded; you must either acknowledge her independence or you must make war." To that we reply: we will take no counsel of our opponents; we will not acknowledge her independence. They say we cannot make war against the State; and the gentleman undertakes to ridicule the distinction which we make between a State and individuals. Sir, it was a distinction that Mr. Madison well understood; it was a distinction that General Jackson was very well determined to recognize; it was the distinction which was made in the whole argument when the Constitution was formed.

Now, sir, let us examine for a minute this idea that we cannot make war. First, we do not propose to do it. Does any gentleman on this side of the chamber propose to declare war against South Carolina? Did you ever hear us suggest such a thing? You talk to us about coercion; many of you talk to us as if you desired us to attempt it. It would not be very strange if a government, and hitherto a great government, were to coerce obedience to her law upon the part of those who were subject to her jurisdiction. No great cause of complaint in that, certainly. "But," says the gentleman, "these persons offending against your law are a sovereign State; you cannot make war upon her"; and, following out with the acuteness of a lawyer what he supposes to be the *modus operandi*, he asks: "What will you do if you will not acknowledge her independence, and you do not make war; how will you collect your revenue?" And he goes on to show very conclusively, to his own mind, that we cannot. He shows us how a skillful lawyer, step by step, will interpose exception, motion, demurrer, rejoinder, and surrejoinder, from the beginning to the end of the legal chapter; and he says, with an air of triumph, which I thought did not well become a gentleman that is yet (may he remain so always) a Senator from a sovereign State, upon the floor of this chamber; he says, with an air of triumph: "It is nonsense; you cannot do it; you will not acknowledge her; you will not declare war; you cannot collect your revenue." Sir, if that is the case to-day, it has been so for seventy years; we have been at the mercy of anybody and everybody who might choose to flout us. Is that true? Are we a government? Have we power to execute our laws? The gentleman threatens us with the consequences; and he says if we attempt it there will be all sorts of legal delays interposed, and when that is done there will be a mob; a great Government will be kicked out of

him, and said to him: "Sir, I am astonished that a bishop should swear in the manner that you do." "Sir," said he, "I want you to distinctly understand that I do not swear as the Bishop of Osnaburgh; I swear as the Duke of York, the commander-in-chief." "Ah, sir," said the old man, "when the Lord shall send the duke to hell what will become of the bishop?" [Laughter.] Now, if, in consequence of an attempt to violate the revenue laws, some persons should be hurt, I do not know that it will better their condition at all that South Carolina will stand as a stake to their back.

On January 3 Senator William Bigler [Pa.] presented a memorial from citizens of Philadelphia asking the passage of the Crittenden resolutions. Approving this petition, he said that, if the Northern people could only act on the question, the South would see that they were prepared to meet its complaints in a kindly and conciliatory spirit.

Senator Crittenden thereupon introduced propositions additional to his former resolutions that Congress submit to the country the following amendments to the Constitution:

1. The Missouri Compromise.
2. Congress to have no power to abolish slavery in the States nor in the District of Columbia.
3. Transportation of slaves from one State to another.
4. Owners of fugitive slaves to be indemnified in cases when their recovery has been prevented by force.
5. These amendments to be incapable of future abolition or change.

A few days thereafter Senator Crittenden supported his resolutions in a speech in which he said that an appeal to the people seemed to be the only course remaining.

He felt sure that Senators would agree to take the slavery question out of Congress forever, as his constitutional amendment proposed to do. The establishment of a line dividing the common territory was less a compromise than a fair adjustment of rights. The alternative was civil war. Were members of Congress prepared for

existence by the tumultuous and vulgar feet of a mob and he seems to rejoice at it. If we do not do it, he says, "Why do you not advance?" He puts me somewhat in mind of the lawyer—and belonging to that honorable profession myself, he will pardon me for alluding to it—in the play of "London Assurance," I think, who gets into a controversy with Cool, insults him, and says, when Cool does not kick him, that "he is a low, underbred fellow; he cannot afford the luxury of kicking me; he knows he would have to pay for it." [Laughter.] Why, Mr. President, against the legal objections to collecting the revenue in a case where South Carolina revolts, and individuals refuse to pay duties, against the lawyership of my friend from Louisiana, I will put another lawyer, General Jackson, a man of whom Mr. Webster said that when he put his foot out he never took it back; and, if the gentleman wants a solution of the difficulties as to the manner in which the revenue is to be collected near the sovereign State of South Carolina, when she is in a condition of revolt or revolution, I will show him what General Jackson thought, and ordered to be done, when South Carolina revolted once before.

Here the speaker read President Jackson's instructions to the collector at Charleston, of the 6th of November, 1832. [See page 88, ss.]

Mr. President, there is my answer to the whole argument of inconvenience and impossibility on the part of the distinguished Senator from Louisiana. There is the manner, allowing all the ingenuity he can claim for his plan of defeat; there is the way in which the Old Hero cut the knot which some people cannot untie. And that is neither an acknowledgment of the independence of South Carolina, nor is it war. If, from that, collision come, let him bear the danger who provokes it.

Why, sir, there is nothing practical in this attempted idea that we cannot punish an individual, or that we cannot compel him to obey the law, because a sovereign State will undertake to succor him. There is no more sense in that than there was in the excuse made by a celebrated commander-in-chief for profane swearing. The Duke of York, as you may remember, sir, was, during the reign of George III, his father, not only commander-in-chief of the British forces, but he was titular Bishop of Osnaburgh, a little principality in Germany. At a tavern one day, while the commander-in-chief was swearing profanely, a gentleman of the Church of England felt it his duty to reprove

such an alternative rather than recognize slavery in a Territory until it becomes a State? The territory was acquired as the common property of all, and now a few attempt to exclude a portion from their just rights, because they have conscientious scruples on the subject. Were Senators willing to sacrifice the country rather than yield their scruples? But, as a matter of right, have Senators any right to exclude any property? The Constitution was formed by men who well knew we had different institutions in different parts of the country, and no section of the country has a right to set up a particular opinion as a rule for all the rest. Suppose the different sections had different religions, would one section try to establish a religion for the other? But the pulpit has become the minister of the politician, and the politician has become the minister of the Gospel. No man has the right to insist that another man's conscience shall be ruled by his. But he [Mr. C.] was to deal with the present, not the past. He was now to consider the safety of the country, and was here as an advocate of the Union, contending for what he thought would save the country. Had a great party grown up which would introduce the anti-slavery principle, and was that the principle on which it had triumphed? This triumph filled some portion of the Southern States with alarm. Will the party now in the proud triumph of victory plant itself on platforms and dogmas and not yield an inch, or will they, like generous men, be not only just but liberal? He appealed to them as patriots and countrymen to grant equal rights to all. He did not think he was asking them to make concessions, but only to grant equal rights. He did not believe in the doctrine of secession. It was a new doctrine, and an attempt to secede with the bold front of a revolution is nothing but lawless violation of the law and the Constitution. But he wanted only to bear his testimony to the Constitution and to let it be known that the Constitution cannot be broken. If a State wishes to secede, let its people proclaim revolution boldly and not attempt to hide themselves under little subtleties of law, and claim the right of secession.

Senator Douglas spoke upon the failure of the Com-

mittee of Thirteen to agree on any plan of conciliation, the question of coercion being the stumbling block.

We are told that, inasmuch as our Government is founded upon the will of the people, or the consent of the governed, therefore coercion is incompatible with republicanism. Sir, the word government means coercion. There can be no government without coercion. Coercion is the vital principle upon which all governments rest. Withdraw the right of coercion and you dissolve your government. If every man would perform his duty and respect the rights of his neighbors voluntarily there would be no necessity for any government on earth. The necessity of government is found to consist in the fact that some men will not do right unless coerced to do so.

But coercion must always be used in the mode prescribed in the Constitution and laws. I hold that the Federal Government is, and ought to be, clothed with the power and duty to use all the means necessary to coerce obedience to all laws made in pursuance of the Constitution. But the proposition to subvert the *de facto* government of South Carolina and to reduce the people of that State into subjection to our Federal authority no longer involves the question of enforcing the laws in a country within our possession; but it does involve the question whether we will make war on a State which has withdrawn her allegiance and expelled our authorities, with a view of subjecting her to our possession for the purpose of enforcing our laws within her limits.

We are bound by the usages of nations, by the laws of civilization, by the uniform practice of our own Government to acknowledge the existence of a government *de facto*, so long as it maintains its undivided authority. Now, as a man who loves the Union, and desires to see it maintained forever, and to see the laws enforced, and rebellion put down, and insurrection suppressed, and order maintained, I desire to know of my Union-loving friends on the other side of the chamber how they intend to enforce the laws in the seceding States except by making war, conquering them first, and administering the laws in them afterwards.

In my judgment no system of compromise can be effectual and permanent which does not banish the slavery question from the halls of Congress and the arena of Federal politics by irrepealable constitutional provision. We have tried compromises by law, compromises by act of Congress; and now we are engaged in the small business of crimination and recrimination as to who is responsible for not having lived up to them in good

a proposition to amend the Constitution. Inasmuch, therefore, as you are willing to amend the instrument, and to entertain propositions of adjustment, why not go further and relieve the apprehensions of the Southern people on all points where you do not intend to operate aggressively? For the purpose of removing the apprehensions of the Southern people, and for no other purpose, you propose to amend the Constitution so as to render it impossible, in all future time, for Congress to interfere with slavery in the States where it may exist under the laws thereof. Why not insert a similar amendment in respect to slavery in the District of Columbia, and in the navy-yards, forts, arsenals, and other places within the limits of the slaveholding States, over which Congress has exclusive jurisdiction? Why not insert a similar provision in respect to the slave trade between the slaveholding States? The Southern people have more serious apprehensions on these points than they have of your direct interference with slavery in the States.

If their apprehensions on these several points are groundless, is it not a duty you owe to God and your country to relieve their anxiety and remove all causes of discontent? The fact that you propose to give the assurance on the one point and peremptorily refuse to give it on the others seems to authorize the presumption that you do intend to use the powers of the Federal Government for the purpose of direct interference with slavery and the slave trade everywhere else, with the view to its indirect effects upon slavery in the States; or, in the language of Mr. Lincoln, with the view of its "ultimate extinction in all the States, old as well as new, North as well as South."

I regret the determination, to which I apprehend the Republican Senators have come, to make no adjustment, entertain no proposition, and listen to no compromise of the matters in controversy.

I fear, from all the indications, that they are disposed to treat the matter as a party question, to be determined in caucus with reference to its effects upon the prospects of their party, rather than upon the peace of the country and the safety of the Union. I invoke their deliberate judgment whether it is not a dangerous experiment for any political party to demonstrate to the American people that the unity of their party is dearer to them than the Union of these States. The argument is that the Chicago platform having been ratified by the people in a majority of the States must be maintained at all hazards, no matter what the consequences to the country. I insist that they are mistaken in the fact when they assert that this question was

faith and for having broken faith. I want whatever compromise is agreed to, placed beyond the reach of party politics and partisan policy, by being made irrevocable in the Constitution itself, so that every man that holds office will be bound by his oath to support it.

There are several modes in which this irritating question may be withdrawn from Congress, peace restored, the rights of the States maintained, and the Union rendered secure. One of them—one to which I can cordially assent—has been presented by the venerable Senator from Kentucky [Mr. Crittenden].

Why cannot you Republicans accede to the reestablishment and extension of the Missouri Compromise line? You have sung peans enough in its praise and utter imprecations and curses enough on my head for its repeal, one would think, to justify you now in claiming a triumph by its reestablishment. If you are willing to give up your party feelings—to sink the partisan in the patriot—and help me to reestablish and extend that line, as a perpetual bond of peace between the North and the South, I will promise you never to remind you in the future of your denunciations of the Missouri Compromise so long as I was supporting it, and of your praises of the same measure when we removed it from the statute-book, after you had caused it to be abandoned by rendering it impossible for us to carry it out. I seek no partisan advantage; I desire no personal triumph. I am willing to let by-gones be by-gones with every man who, in this exigency, will show by his vote that he loves his country more than his party.

I address the inquiry to the Republicans alone, for the reason that in the committee of thirteen, a few days ago, every member from the South, including those from the cotton States [Messrs. Toombs and Davis], expressed their readiness to accept the proposition of my venerable friend from Kentucky [Mr. Crittenden] as a final settlement of the controversy, if tendered and sustained by the Republican members. Hence, the sole responsibility of our disagreement, and the only difficulty in the way of an amicable adjustment, is with the Republican party.

At first, I thought your reason for declining to adjust this question amicably was that the Constitution, as it stands, was good enough, and that you would make no amendment to it. That position has already been waived. The great leader of the Republican party [Mr. Seward], by the unanimous concurrence of his friends, brought into the Committee of Thirteen

decided by the American people in the late election. The American people have not decided that they preferred the disruption of this Government, and civil war with all its horrors and miseries, to surrendering one iota of the Chicago platform. If you believe that the people are with you on this issue, let the question be submitted to the people on the proposition offered by the Senator from Kentucky, or any other fair compromise, and I will venture the prediction that your own people will ratify the proposed amendments to the Constitution in order to take this slavery agitation out of Congress and restore peace to the country and insure the perpetuity of the Union.

Why not allow the people to pass on these questions? All we have to do is to submit them to the States. If the people reject them, theirs will be the responsibility, and no harm will have been done by the reference. If they accept them, the country will be safe and at peace. The political party which shall refuse to allow the people to determine for themselves at the ballot-box the issue between revolution and war, on the one side, and obstinate adherence to a party platform, on the other, will assume a fearful responsibility. A war upon a political issue, waged by the people of eighteen States against the people and domestic institutions of fifteen sister States, is a fearful and revolting thought. The South will be a unit and desperate, under the belief that your object in waging war is their destruction and not the preservation of the Union; that you meditate servile insurrection and the abolition of slavery in the Southern States, by fire and sword, in the name and under pretext of enforcing the laws and vindicating the authority of the Government. You know that such is the prevailing, and, I may say, unanimous opinion at the South; and that ten million people are preparing for the terrible conflict under that conviction.

It matters not, so far as the peace of the country and the preservation of the Union are concerned, whether the apprehensions of the Southern people are well founded or not, so long as they believe them and are determined to act upon that belief. If war comes it must have an end at some time; and that termination, I apprehend, will be a final separation. Whether the war last one year, seven years, or thirty years the result must be the same—a cessation of hostilities when the parties become exhausted and a treaty of peace recognizing the separate independence of each section. The history of the world does not furnish an instance where war has raged for a series of years between two classes of States, divided by a geographical line under the same national government which has ended in recon-

ciliation and reunion. Extermination, subjugation, or separation, one of the three, must be the result of war between the Northern and Southern States. Surely, you do not expect to exterminate or subjugate ten million people, the entire population of one section, as a means of preserving amicable relations between the two sections!

Robert Toombs [Ga.] followed Senator Douglas.

The success of the Abolitionists and their allies, under the name of the Republican party, has produced its logical results already. They have for long years been sowing dragons' teeth, and have finally got a crop of armed men. The Union, sir, is dissolved. That is an accomplished fact in the path of this discussion that men may as well heed. One of your confederates has already, wisely, bravely, boldly, confronted public danger, and she is only ahead of many of her sisters because of her greater facility for speedy action. The greater majority of those sister States, under like circumstances, consider her cause as their cause; and I charge you in their name to-day: "Touch not Saguntum."¹

Senators, my countrymen have demanded no new government; they have demanded no new Constitution. They have not demanded a single thing except that you shall abide by the Constitution of the United States; that constitutional rights shall be respected; and that justice shall be done. Sirs, they have stood by your Constitution; they have stood by all its requirements; they have performed all of its duties unselfishly, uncalculatingly, disinterestedly, until a party sprang up in this country which endangered their social system—a party which they arraign, and which they charge before the American people and all mankind, with having made proclamation of outlawry against four thousand millions of their property in the Territories of the United States; with having aided and abetted insurrection from within and invasion from without, with the view of subverting their institutions and desolating their homes and their firesides. For these causes they have taken up arms.

How have you met the claims of the South?

We claim that the Government, while the Constitution recognizes our property for purposes of taxation, shall give it the

¹ The warning given by the Romans which was disregarded by Hannibal, who attacked the city, the capital of Spanish allies of Rome, in 219 B. C., and so inaugurated the second Punic War.—*Livy* 21, chapters 2, 7, 9.

fence. All these charges I have proven by the record; and I put them before the civilized world and demand the judgment of to-day, of to-morrow, of distant ages, and of Heaven itself upon the justice of these causes. I am content, whatever it be, to peril all in so noble, so holy a cause. We have appealed, time and time again, for these constitutional rights. You have refused them. We appeal again. Restore us these rights as we had them, as your court adjudges them to be, just as all our people have said they are; redress these flagrant wrongs, seen of all men, and it will restore fraternity, and peace, and unity to all of us. Refuse them and what then? We shall then ask you: "Let us depart in peace." Refuse that and you present us war. We accept it; and inscribing upon our banners the glorious words: "liberty and equality," we will trust to the blood of the brave and the God of battles for security and tranquillity.

On January 9, 1861, President Buchanan sent a special message to Congress in which he reiterated the opinions of his annual message, and pleaded that Congress adopt without delay a plan of reconciling the sections.

A common ground on which conciliation and harmony can be produced is surely not unattainable. The proposition to compromise by letting the North have exclusive control of the territory above a certain line and to give Southern institutions protection below that line ought to receive universal approbation. In itself, indeed, it may not be entirely satisfactory; but, when the alternative is between a reasonable concession on both sides and a destruction of the Union, it is an imputation upon the patriotism of Congress to assert that its members will hesitate for a moment.

Even now the danger is upon us. In several of the States which have not yet seceded the forts, arsenals, and magazines of the United States have been seized. This is by far the most serious step which has been taken since the commencement of the troubles. This public property has long been left without garrisons and troops for its protection; because no person doubted its security under the flag of the country in any State of the Union. Besides, our small army has scarcely been sufficient to guard our remote frontiers against Indian incursions. The seizure of this property, from all appearances, has been purely aggressive and not in resistance to any attempt to coerce a State or States to remain in the Union.

I refrained even from sending reinforcements to Major An-

same protection that it gives yours. Ought it not to do so? You say no. Every one of you upon the committee said no. Your Senators say no. Your House of Representatives says no. Throughout the length and breadth of your conspiracy against the Constitution there is but one shout of no! This recognition of this right is the price of my allegiance. Do you ask me to support a government that will tax my property; that will plunder me; that will demand my blood, and will not protect me? I would rather see the population of my own native State laid six feet beneath her sod than that they should support for one hour such a government. Protection is the price of obedience everywhere, in all countries. It is the only thing that makes government respectable. Deny it, and you cannot have free subjects or citizens; you may have slaves.

The Constitution of the United States now requires and gives Congress express power to define and punish piracies and felonies committed on the high seas and *offences against the laws of nations*. When the honorable and distinguished Senator from Illinois [Mr. Douglas] last year introduced a bill for the purpose of punishing people thus offending under that clause of the Constitution Mr. Lincoln, in his speech at New York, declared that it was a "sedition bill." He places the stamp of his condemnation upon a measure intended to promote the peace and security of confederate States. He is, therefore, an enemy of the human race and deserves the execration of all mankind.

But we are told by well-meaning but simple-minded people that admit our wrongs, your remedies are not justifiable. Senators, I have little care to dispute remedies with you unless you propose to redress my wrongs.

You will not regard confederate obligations; you will not regard constitutional obligations; you will not regard your oaths. What, then, am I to do? Am I a freeman? Is my State, a free State, to lie down and submit because political fossils raise the cry of the glorious Union? Too long already have we listened to this delusive song. We are freemen. We have rights; I have stated them. We have wrongs; I have recounted them. I have demonstrated that the party now coming into power has declared us outlaws and is determined to exclude four thousand millions of our property from the common Territories; that it has declared us under the ban of the empire and out of the protection of the laws of the United States everywhere. They have refused to protect us from invasion and insurrection by the Federal power, and the Constitution denies to us in the Union the right either to raise fleets or armies for our own de-

person, who commanded the forts in Charleston harbor, until an absolute necessity for doing so should make itself apparent, lest it might unjustly be regarded as a menace of military coercion, and thus furnish, if not a provocation, at least a pretext for an outbreak on the part of South Carolina. No necessity for these reinforcements seemed to exist. I was assured by distinguished and upright gentlemen of South Carolina that no attack upon Major Anderson was intended; but that, on the contrary, it was the desire of the State authorities, as much as it was my own, to avoid the fatal consequences which must eventually follow a military collision.

On January 10 Jefferson Davis [Miss.] addressed himself to the following passage in the message:

"I certainly had no right to make aggressive war upon any State; and I am perfectly satisfied that the Constitution has wisely withheld that power even from Congress, but the right and the duty to use military force defensively against those who resist the Federal officers in the execution of their legal functions, and against those who assail the power of the Federal Government, is clear and undeniable."

Is it so? Where does the President get it? Our fathers were so jealous of a standing army that they scarcely would permit the organization and maintenance of any army! Where does he get the "clear and undeniable" power to use the force of the United States in the manner he there proposes? To execute a process, troops may be summoned as a *posse comitatus*; and here, in the history of our Government, it is not to be forgotten that in the earlier, and, as it is frequently said, the better, days of the Republic—and painfully we feel that they were better, indeed—a President of the United States did not recur to the army; he went to the people of the United States.

The case of General Washington has no application. It was a case of insurrection within the State of Pennsylvania; and the very message from which he read communicated the fact that Governor Mifflin thought it necessary to call the militia of adjoining States to aid him. President Washington coöperated with Governor Mifflin; he called the militia of adjoining States to coöperate with those of Pennsylvania. He used the militia, not as a standing army. It was by the consent of the Governor; it was by his advice. It was not the invasion of the State; it was not the coercion of the State; but it was aiding the State to put down insurrection, and in the very manner provided in the Constitution itself.

But, I ask again, what power has the President to use the army and the navy except to execute process? Are we to have drum-head courts substituted for those which the Constitution and laws provide? Are we to have sergeants sent over the land instead of civil magistrates? Not so thought the elder Adams; and here, in passing, I will pay him a tribute he deserves, as the one to whom, more than any other man among the early founders of this Government, credit is due for the military principles which prevail in its organization. Associated with Mr. Jefferson, originally, in preparing the rules and articles of war, Mr. Adams reverted through the long pages of history back to the empire of Rome, and drew from that foundation the very rules and articles of war which govern in our country to-day, and drew them thence because he said they had brought two nations to the pinnacle of glory—referring to the Romans and the Britons, whose military law was borrowed from them. Mr. Adams, however, when an insurrection occurred in the same State of Pennsylvania, not only relied upon the militia, but his orders were that Federal troops should not go across the Jersey line except in the last resort.

Then, Senators, we are brought to consider passing events. A little garrison in the harbor of Charleston now occupies a post which, I am sorry to say, it gained by the perfidious breach of an understanding between the parties concerned. When Major Anderson dismantled Fort Moultrie, when he burned the carriages and spiked the guns bearing upon Fort Sumter, he put Carolina in the attitude of an enemy of the United States. Was that fort built to make war upon Carolina? Was an armament put into it for such a purpose? Or was it built for the protection of Charleston harbor; and was it armed to make that protection complete? If so, what right had any soldier to destroy that armament lest it should fall into the hands of Carolina? No garrison should be kept within a State during a time of peace, if the State believes the presence of that garrison to be either offensive or dangerous. Our army is maintained for common defence; our forts are built out of the common treasury, to which every State contributes; and they are perverted from the purpose for which they were erected whenever they are garrisoned with a view to threaten, to intimidate, or to control a State in any respect.

Yet we are told this is no purpose to coerce a State; we are told that the power does not exist to coerce a State; but the Senator from Tennessee [Mr. Johnson] says it is only a power to coerce individuals; and the Senator from Ohio [Mr. Wade]

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sitions made by commissioners from South Carolina. We are not informed even as to how they terminated. No countervailing proposition is presented; no suggestion is made. We are left drifting loosely, without chart or compass.

There is, in our recent history, however, an event which might have suggested a policy to be pursued. When foreigners, having no citizenship within the United States, declared war against it, and made war upon it; when the inhabitants of a Territory [Utah] disgraced by institutions offensive to the law of every State of the Union held this attitude of rebellion; when the executive there had power to use troops, he first sent commissioners of peace to win them back to their duty. When South Carolina, a sovereign State, resumes the grants she had delegated; when South Carolina stands in an attitude which threatens within a short period to involve the country in civil war, unless the policy of the Government be changed—no suggestion is made to us that this Government might send commissioners to her; no suggestion is made to us that better information should be sought; there is no policy of peace, but we are told the army and the navy are in the hands of the President of the United States, to be used against those who assail the power of the Federal Government.

Then, my friends, are we to allow events to drift onward to this fatal consummation? Are we to do nothing to restore peace? Shall we not withdraw the force which complicates the question, send commissioners there in order that we may learn what this community desire, what this community will do, and put the two Governments upon friendly relations?

Now let us return a moment to consider what would have been the state of the case if the garrison at Charleston had been withdrawn. The fort would have stood there—not dismantled, but unoccupied. It would have stood there in the hands of an ordnance sergeant. Commissioners would have come to treat of all questions with the Federal Government, of these forts as well as others. They would have remained there to answer the ends for which they were constructed—the ends of defence. If South Carolina was an independent State then she might hold to us such a relation as Rhode Island held in the dissolution of the Confederation and before the formation of the Union, when Rhode Island appealed to the sympathies existing between the States connected in the struggles of the Revolution, and asked that a commercial war should not be waged upon her. These forts would have stood there then to cover the harbor of a friendly State; and if the feeling which once existed among the people of the States had subsisted still, and that fort had been

seems to look upon this latter power as a very harmless power in the hands of the President, though such coercion would be to destroy the State. What is a State? Is it land and houses? Is it taxable property? Is it the organization of the local government? Or is it all these combined, with the people who possess them? Destroy the people, and yet not make war upon the State! To state the proposition is to answer it, by reason of its very absurdity. It is like making desolation, and calling it peace.

There being, as it is admitted on every hand, no power to coerce a State, I ask what is the use of a garrison within a State where it needs no defence? The answer from every candid mind must be, there is none. The answer from every patriotic breast must be, peace requires, under all such circumstances, that the garrison should be withdrawn.

The President's message of December, however, had all the characteristics of a diplomatic paper, for diplomacy is said to abhor certainty, as nature abhors a vacuum; and it was not within the power of man to reach any fixed conclusion from that message. When the country is agitated, when opinions are being formed, when we are drifting beyond the power ever to return, this is not what we have a right to expect from the Chief Magistrate. One policy or the other he ought to have taken. If a Federalist, if believing this to be a Government of force, if believing it to be a consolidated mass and not a confederation of States, he should have said: no State has a right to secede; every State is subordinate to the Federal Government, and the Federal Government must empower me with physical means to reduce to subjugation the State asserting such a right. If not, if a State-rights man and a Democrat—as for many years it has been my pride to acknowledge our venerable Chief Magistrate to be—then another line of policy should have been taken. The Constitution gave no power to the Federal Government to coerce a State; the Constitution gave an army for the purposes of common defence, and to preserve domestic tranquillity; but the Constitution never contemplated using that army against a State. A State exercising the sovereign function of secession is beyond the reach of the Federal Government, unless we woo her with the voice of fraternity, and bring her back to the enticements of affection. He should have brought his opinion to one conclusion or another, and to-day our country would have been safer than it is.

What is the message before us? Does it benefit the case? Is there a solution offered here? We are informed in it of propo-

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attacked, brave men from every section would have rushed to the rescue, and there imperiled their lives in the defence of a State identified with their early history, and still associated in their breasts with affection; and the first act of this time would have been one appealing to every generous motive of those people again to reconsider the question of how we could live together, and through that bloody ordeal to have brought us into the position in which our fathers left us. There could have been no collision; there could have been no question of property which that State was not ready to meet. If it was a question of dollars and cents they came here to adjust it. If it was a question of covering an interior State their interests were identical. In whatever way the question could have been presented the consequence would have been to relieve the Government of the charge of maintaining the fort, and to throw it upon the State which had resolved to be independent.

Is there any point of pride which prevents us from withdrawing that garrison? I have heard it said by a gallant gentleman, to whom I make no special reference, that the great objection was an unwillingness to lower the flag. To lower the flag! Under what circumstances? Does any man's courage impel him to stand boldly forth to take the life of his brethren? Does any man insist upon going upon the open field with deadly weapons to fight his brother on a question of courage? There is no point of pride. These are your brethren; and they have shed as much glory upon that flag as any equal number of men in the Union. They are the men, and that is the locality, where the first Union flag was unfurled, and where was fought a gallant battle before our independence was declared—not the flag with thirteen stripes and thirty-three stars, but a flag with a cross of St. George, and the long stripes running through it. When the gallant Moultrie took the British Fort Johnson, and carried it, for the first time, I believe, did the Union flag fly in the air; and that was in October, 1775. When he took the position and threw up a temporary battery with palmetto logs and sand, upon the site called Fort Moultrie, that fort was assailed by the British fleet, and was bombarded until the logs, clinging with stern tenacity to the enemy that assailed them, were filled with balls, the flag still floated there, and, though many bled, the garrison conquered. Those old logs are gone; the eroding current is even taking away the site where Fort Moultrie stood; the gallant men who held it now mingle with the earth; but their memories live in the hearts of a gallant people, and their sons yet live, and they, like their fathers, are ready to bleed and to die for the cause in which

their fathers triumphed. Glorious are the memories clinging around that old fort which now, for the first time, has been abandoned—abandoned not even in the presence of a foe, but under the imaginings that a foe might come; and guns spiked and carriages burned where the band of Moultrie bled, and, with an insufficient armament, repelled the common foe of all the colonies. Her ancient history compares proudly with the present.

Can there, then, be a point of pride upon so sacred a soil as this, where the blood of the fathers cries to Heaven against civil war? Can there be a point of pride against laying upon that sacred soil to-day the flag for which our fathers died? My pride, Senators, is different. My pride is that that flag shall not set between contending brothers; and that, when it shall no longer be the common flag of the country, it shall be folded up and laid away like a vesture no longer used; that it shall be kept as a sacred memento of the past, to which each of us can make a pilgrimage, and remember the glorious days in which we were born.

The Senator from Tennessee [Mr. Johnson]—to whom I refer because he is a Southern Senator—takes the most hostile ground against us. He says:

"We do not intend that you shall drive us out of this house that was reared by the hands of our fathers, and if you persist in the violation of the ordinances of the house we intend to eject you from the building and retain the possession ourselves."

I think it was a mere figure of speech. I do not believe the Senator from Tennessee intended to kick you out of the house; and if he did, let me say to you, in all sincerity, we who claim the constitutional right of a State to withdraw from the Union do not intend to help him. He says, however, and this softens it a little:

"We do not think, though, that we have just cause for going out of the Union now. We have just cause of complaint; but we are for remaining in the Union and fighting the battle like men."

What does that mean? In the name of common sense, I ask how are we to fight in the Union? We take an oath of office to maintain the Constitution of the United States. The Constitution of the United States was formed for domestic tranquillity; and how, then, are we to fight in the Union?

SENATOR JOHNSON.—I meant that we should remain here under the Constitution of the United States, and contend for all its guaranties; and by preserving the Constitution and all its guar-

Looking, then, upon separation as inevitable, not knowing how that separation is to occur, or, at least, what States it is to embrace, there remains to us, I believe, as the consideration which is most useful, the inquiry, how can this separation be effected so as to leave to us the power, whenever we shall have the will, to reconstruct? It can only be done by adopting a policy of peace. It can be done only by denying to the Federal Government all power to coerce. It can be done only by returning to the point from which we started, and saying, "This is a Government of fraternity, a Government of consent; and it shall not be administered in a departure from those principles."

If our Government shall fail, it will not be the defect of the system, though its mechanism was wonderful, surpassing that which the solar system furnishes for our contemplation; for it had had no center of gravitation; each planet was set to revolve in an orbit of its own, each moving by its own impulse, and all attracted by the affections which countervailed each other. It has been the perversion of the Constitution; it has been the substitution of theories of morals for principles of government; it has been forcing crude opinions about things not understood upon the domestic institutions of other men, which act has disturbed these planets in their orbit; it is this that threatens to destroy the constellation which, in its power and its glory, had been gathering one after another, until, from thirteen, it had risen to thirty-three stars.

Lyman Trumbull [Ill.] followed.

We have listened to the Senator from Mississippi; and one would suppose, in listening to him here, that he was a friend of this Union, that he desired the perpetuity of this Government. He has a most singular way of preserving it, and a most singular way of maintaining the Constitution. What is it? Why, he proposes that the Government should abdicate. If it will simply withdraw its forces from Charleston, and abdicate in favor either of a mob or of the constituted authorities of Charleston, we will have peace! He dreads civil war; and he will avoid it by a surrender! He talks as if we Republicans were responsible for civil war if it ensues. If civil war comes it comes from those with whom he is acting. Who proposes to make civil war but South Carolina? Who proposes to make civil war but Mississippi and Alabama and Georgia, seizing, by force of arms, upon the public property of the United States! Talk to us of making civil war! You inaugurate it, and then talk of it as if it came from the friends of the Constitution and the Union.

anties we would preserve the Union. Our true place to maintain these guaranties, and to preserve the Constitution, is in the Union, there to fight our battle. How? By argument; by appeals to the patriotism, to the good sense, and to the judgment of the whole country; by showing the people that the Constitution had been violated; that all its guaranties were not complied with; and I have entertained the hope that when they were possessed of that fact there would be found patriotism and honesty enough in the great mass of the people, North and South, to come forward and do what was just and right between the contending sections of the country.

SENATOR DAVIS.—I receive the answer from the Senator, and I think I comprehend now that he is not going to use any force, but it is a sort of fighting that is to be done by votes and words; and I think, therefore, the President need not bring artillery and order out the militia to suppress them. I think, altogether, we are not in danger of much bloodshed in the mode proposed by the Senator from Tennessee.

SENATOR JOHNSON, of Tennessee.—I had not quite done; but if the Senator is satisfied—

SENATOR DAVIS.—Quite satisfied. I am entirely satisfied that the answer of the Senator shows me he did not intend to fight at all; that it was a mere figure of speech, and does not justify converting the Federal capital into a military camp. But it is a sort of revolution which he proposes; it is a revolution under the forms of the Government. Now, I have to say, once for all, that, as long as I am a Senator here, I will not use the powers I possess to destroy the very Government to which I am accredited. I will not attempt, in the language of the Senator, to handcuff the President. I will not attempt to destroy the Administration by refusing any officers to administer its functions. I should vote, as I have done to Administrations to which I stood in nearest relation, against a bad nomination; but I never would agree, under the forms of the Constitution, and with the powers I bear as a Senator of the United States, to turn those powers to the destruction of the Government I was sworn to support. I leave that to gentlemen who take the oath with a mental reservation. It is not my policy. If I must have revolution, I say, let it be a revolution such as our fathers made when they were denied their natural rights.

So much for that. It has quieted apprehensions; and I hope that the artillery will not be brought here; that the militia will not be called out; and that the female schools will continue their sessions as heretofore. [Laughter.]

Here stands this great Government; here stands the Union—a pillar, so to speak, already erected. Do we propose to pull it down? Do we propose undermining the foundations of the Constitution or disturbing the Union? Not at all; but the proposition comes from the other side. They are making war, and modestly ask us to have peace by submitting to what they ask!

I agree in one thing with the Senator from Mississippi. I agree with him that there should have been more decision and more resolution on the part of the Government at the outset. If, when he was secretly informed, as it seems he was long ago, that the public property of the United States at Charleston was not to be protected; if, at that time, he, as a military man, had advised the President of the United States to put the public property at Charleston in a position to be defended, secession would never have made the progress it has. But, sir, it seems there was a complicity with this thing. It was at least to be tolerated. Assurances, it was said, were given that the United States would not protect itself: "Go on, you seceding States; gather your strength; the United States will do nothing to protect itself against your assaults."

The stars and stripes have been taken down from the United States buildings in the city of Charleston, and trampled in the dust, and a palmetto flag, with a snake, reared in their place; but if we would avoid civil war, we are told, we must submit to this! Why, sir, any people can have peace at the price of degradation. No despot makes war upon subjects who submit their necks to the tread of his heel. But if we would maintain constitutional liberty; if we would maintain constitutional freedom; if we would maintain this great Government; we must not suffer every faction, and every mob, and every State, that thinks proper, to trample its flag under foot.

What is the occasion of all this uproar in the country, and why is it laid at the door of the Republican party? Why is the Senator from Kentucky [Mr. Crittenden] seeking to overturn the compromises of 1850? Why may we not stand right by them? Why any new legislation; why any proposition to amend the Constitution; why not stand upon the great settlement made in 1850, and not attempt to introduce a provision here to establish slavery south of a certain line, which that compromise did not do? When, at that time, a proposition was made in the Senate Chamber to extend slavery, a distinguished Senator from Kentucky, now deceased, uttered a sentiment which alone should make him immortal. He said that he never would, and no human power ever should, compel him to vote to

extend slavery over one foot of territory then free. I regret I have to say that the distinguished Senator now representing Kentucky proposes to do that very thing which the immortal Clay declared that no power under God could ever induce him to do.

Why may we not, then, settle this matter? Let your new legislation go; abandon your propositions of compromise by amendments to the Constitution, and your appeals to the Republican party to do something, as if they had power to do anything. They have not had control of this Government. The South have had the entire control of the Government. They have made all the laws, and made them to suit themselves. What are they complaining of? Why is it that the Government is to be dissolved, and civil war inaugurated? We will stand by the compromises as they were made. We are not proposing to change them.

On January 11 Robert M. T. Hunter [Va.] asked for more drastic constitutional amendments than those proposed by Senator Crittenden. These were that Congress should have no power to abolish slavery in Federal arsenals and dockyards in the South, as well as in the District of Columbia, and that any Territory when admitted to the Union be permitted to do so with slavery or without as the people of the Territory should decide. As additional guaranties he revived the proposition of John C. Calhoun that two Presidents be elected, one from the North and one from the South, the second President to succeed the first in administration, and, pending this, to preside over the Senate, having veto power over treaties and the acts of Congress. He also proposed that the Supreme Court be enlarged from nine to ten members, equally divided between North and South, and that any State might bring before it another State on the charge of having failed to discharge its constitutional obligations, and then, if the Court found the State to be in fault, and did not repair the wrong, that any other State might deny all privileges to its citizens, and that all States might tax its commerce until it ceased to be in fault.

He adverted at some length, and with some argumentative force, to the questions of secession, coercion,

be denied to any portion of my countrymen. I choose rather to stand in the character in which I appear this day. I stand here to plead for peace; not that my State, in my opinion, has any reason to fear war more than another, but because it is the interest of all to preserve the peace. In the sacred names of humanity and of Christian civilization; in the names of thirty million human souls, men, women, and children, whose lives, whose honor, and whose happiness depend upon the events of such a civil war as that with which we are threatened; in the name of the great American experiment, which was founded by Providence in the wilderness, and which, I insist, has not yet failed; I appeal to the American people to prevent the effusion of blood. It is said that the very scent of blood stirs up the animal passions of man. Give us time for the play of reason. Let us see, after the Southern States have secured themselves by some united action, if we cannot bring together once more our scattered divisions; if we cannot close up our broken ranks; if we cannot find some place of conciliation, some common ground upon which we all may rally once more; and when the columns come mustering in from the distant North and the furthest South, from the rising and from the setting sun, to take their part in that grand review, the shout of their war-cry shall shake the air until it brings down the very birds in their flight as it ascends to the heavens to proclaim to the world that we are united once more, brothers in war, and brothers in peace, ready to take our wonted place in the front line of the mighty march of human progress, and able and willing to play for the mastery in that game of nations where the prizes are power and empire, and where victory may crown our name with eternal fame and deathless renown.

James Harlan, of Iowa, followed, confining his remarks chiefly to the Fugitive Slave Law and the impropriety of the presumption fostered by Southern men that the majority should submit to the minority. He conceived that human liberty, liberty of speech, of the press, of conscience, of government, of religion—all were at stake; if the North yielded, all were in peril and society itself would be shocked to its very center by such a "compromise."

On January 12 William H. Seward [N. Y.] made an expected speech, the prospect of which crowded the Senate chamber, since the speaker's position as the accredited Secretary of State of the incoming Administration

and the enforcement of the laws. Call it what you may, secession was a fixed fact, and that the constitutional power did not exist to coerce a State he believed to be incontestable.

In conclusion he appealed to his opponents.

Republican Senators, why are these threats of coercion sent to the Southern States, who are seeking to do no evil to others, but merely to protect and defend themselves? Do they go out with any purpose of attacking your rights? Do they secede with the wish to injure or disturb you in any manner? Are they not going out simply for the purpose of exercising that first law of nature and of nations, the right of self-government, because they believe they are not safe under your rule? Are they not willing to meet all the responsibilities which they may have incurred while they were carrying on a joint government with you? Why, then, sirs, do you claim to pursue them with fire and with sword; and why do you deny to them that right which belongs to every organized people? When we were asserting that right against the Government of Great Britain we claimed, and we received, the sympathies of the whole civilized world. When the Spanish provinces rebelled against the mother country we were quick to express our sympathy and regard for their cause. When Greece, distant Greece, asserted her independence we were among the first to express our sympathy for her. Now, sir, the right which we are free to offer, and the sympathy which we gladly extend, to foreigners and to aliens, are refused to our own brethren; and you say that, if they attempt to exercise them, you will pursue them to the death.

Mr. President, is it to be supposed that any Anglo-Saxon people, people of our own blood and race, would submit to such demands? Is there any free people who are worthy of liberty who would not say that sooner than yield to such demands as these we bid you to wrap in flames our dwellings, and float our land in blood? I believe if they attempt to coerce the Southern people in this regard they will meet not only with the general detestation of mankind, but with such resistance as has never been shown before in the world, except, perhaps, in the history of Holland, whose people fought behind the dykes and flooded their land with waves of the sea, preferring death in any and every form rather than submission to such oppression and tyranny.

But, Mr. President, I do not wish to pursue this line of argument. I do not desire to engage in any discussion which so much stirs the blood as the supposition that such rights as these are to

rendered his words of more than usual weight. It was expected that he would pronounce for peace or war—decide if the seceding States should be permitted to depart in peace or be held responsible at the bar of executive power, and, if compromise were possible, to indicate it.

After adverting to the happy auspices of the preceding session and the calamities which were impending at the moment he confessed that the alarm was appalling. Union is not more the body than liberty is the soul of the nation. The American citizen, therefore, who has looked calmly at revolution elsewhere and believed his own country free from its calamities, shrinks from the sight of convulsive indications of its sudden death. He knew how difficult it was to decide, amid so many and so various counsels what ought to, or even what can, be done; but it was time for every Senator to declare himself. He therefore declared his "adherence to the Union in its integrity and with all its parts, with my friends, with my party, with my State, with my country, or without either, as they may determine, in every event, whether of peace or of war, with every consequence of honor or dishonor, of life or of death."

This fine sentiment, says Orville J. Victor in his "History of the Southern Rebellion," was the keynote to his entire speech; to the defence and illustration of that standpoint he brought to bear all the power of his eloquence, all the force of his logic, all the resources of his accomplished intellect. His position was opposed to that of most members of his party who had declared against compromise, and, to some degree, it served to argue a difference in policy from the President-elect, whose first minister he was to become.¹

It was, said Senator Seward, easy to say what would

¹The N. Y. Tribune, late in December, had inserted the following as a "double-leaded" editorial:

"We are enabled to state, in the most positive terms, that Mr. Lincoln is utterly opposed to any concession or compromise that shall yield one iota of the position occupied by the Republican party on the subject of slavery in the Territories, and that he stands now, as he stood in May last, when he accepted the nomination for the presidency, squarely upon the Chicago Platform."

not save the Union.¹ Mere eulogiums would not, mutual criminations would not, a continuance of the debate on the power of Congress over slavery in the Territories would not. The Union could not be saved even by proving secession illegal and unconstitutional, and little more would be gained by proving the right of the Federal Government to coerce a seceding State to obedience. All must give place to the practical question—Have many seceding States the right to coerce the remaining members to acquiesce in a dissolution?

Congressional compromises, as such, he assumed, were not calculated to save the Union. He said:

"I know that tradition favors this form of remedy. But it is essential to success, in any case, that there be found a preponderating mass of citizens, so far neutral on this issue which separates parties that they can intervene, strike down clashing weapons, and compel an accommodation. Moderate concessions are not customarily asked by a force with its guns in battery; nor are liberal concessions apt to be given by an opposing force not less confident of its own right and its own strength. I think also that there is a prevailing conviction that legislative compromises which sacrifice honestly cherished principles, while they anticipate future exigencies, even if they do not assume extra-constitutional powers, are less sure to avert imminent evils than they are certain to produce ultimately even greater dangers."

He thought, therefore, that it would be wise to discard two prevalent ideas or prejudices, *viz.*: that the Union was to be saved by somebody in particular, or was to be preserved by some cunning and insincere compact of pacification.

After referring at some length to the facts of the consolidation of the States to form a government capable of acting as a central power and a unit—of enforcing its powers and sustaining its rights, he proceeded to show that, laying aside all passion, all prejudice, all pique, the Union was essential to the prosperity and development of the American people.

¹ Compare this with speech of Senator John C. Calhoun, Vol. IV, p. 200.

Dissolution, indeed, he assumed, would not only arrest but would extinguish the greatness of this country.

"Dissolution would signalize its triumph by acts of wantonness which would shock and astound the world. It would provincialize Mount Vernon and give this capitol over to desolation at the very moment when the dome is rising over our heads that was to be crowned with the statue of liberty. After this there would remain for disunion no act of stupendous infamy to be committed. No petty confederacy that shall follow the United States can prolong or even renew the majestic drama of national progress. Perhaps it is to be arrested because its sublimity is incapable of continuance. Let it be so, if we have indeed become degenerate. After Washington and the inflexible Adams, Henry, and the peerless Hamilton, Jefferson, and the majestic Clay, Webster, and the acute Calhoun, Jackson, the modest Taylor, and Scott, who rises in greatness under the burden of years, and Franklin, and Fulton, and Whitney, and Morse have all performed their parts, let the curtain fall!"

He discoursed with great feeling upon the shattered prosperity which must result from a dismemberment of the Confederacy. Everywhere a dark hand would be laid upon enterprise to smother it. The pioneer would draw back from the plains of the West, while the savage red man would once more rise in his vengeance to drive back the hated invader of his land. Our ships of war, now commanding the respect and admiration of the civilized world, as types of our commercial and political greatness, would sail hither and thither scarcely observed. Public liberty—our own peculiar liberty—would languish and then cease to live. Over all would rise the hateful forms of a military despotism.

He then proceeded to examine into the causes of this sudden and eternal sacrifice of so much safety, greatness, happiness, and freedom. Have foreign nations combined for our overthrow and subjugation? No! They are all interested and admiring friends. Has the Federal Government become tyrannical or oppressive, or even rigorous or unsound? Has the Constitution lost its spirit, and all at once collapsed into a lifeless letter? No! the Federal Government smiles more benignantly and works to-day more benignly than ever. The Con-

"Notwithstanding recent vehement expressions and manifestations of intolerance in some quarters, produced by intense partisan excitement, we are, in fact, an homogeneous people, chiefly of one stock, with accessions well assimilated. We have, practically, only one language, one religion, one system of government, with manners and customs common to all."

He adverted to the impossibility of such a people, divided, being prosperous and happy—to their intricate relations and the necessities of a war footing to guard against each other's encroachments and assumptions. "Universal suffrage and the absence of a standing army are essential to the republican system." A state of military defence would inevitably produce a military demoralization and eventually a military despotism.

Senator Seward then entered upon a consideration of the causes of the impending dissolution of the political bond of union.

In this connection he referred to the territorial domain. Would disunion, he asked, settle the control of this without war? No, he replied. Then, if war came, would it be possible to avert a servile insurrection with all its horrors in the South? No!

He reviewed the great change in the public sentiment of the world in regard to slavery during the last century. One hundred years ago all commercial European states were engaged in transferring slaves from Africa to America. Now all these States were inimical even to the holding of slaves. Opposition to it has assumed two forms: one, European, which is simple, direct abolition, effected, if need be, by compulsion; the other, American, which seeks to arrest the African slave trade and to resist the entrance of the institution of slavery into the Territories, while it leaves the disposition of existing slavery to the considerate action of the States by which it is retained. It is the Union which restricts the opposition to slavery in this country within these limits. If dissolution prevail what guaranty shall there be against the full development here of the fearful and uncompromising hostility to slavery which elsewhere pervades the world, and of which the recent invasion of Virginia (John Brown's raid) was an illustration?

stitution is even the chosen model for the organization of the newly rising confederacies! What, then, can excuse the mighty crime of disunion! and its train of anarchy, of wrong, of incalculable injury to society, to intelligence, to liberty, to happiness?

"The justification it assigned was that Abraham Lincoln had been elected, while the success of either one of three other candidates would have been acquiesced in. Was the election illegal? No; it is unimpeachable. Is the candidate personally offensive? No; he is a man of unblemished virtue and amiable manners. Is an election of President an unfrequent or extraordinary transaction? No; we never had a Chief Magistrate otherwise designated than by such election, and that form of choice is renewed every four years. Does anyone even propose to change the mode of appointing the Chief Magistrate? No; election by universal suffrage, as modified by the Constitution, is the one crowning franchise of the American people. To save it they would defy the world. Is it apprehended that the new President will usurp despotic powers? No; while he is of all men the most unambitious, he is, by the partial success of those who opposed his election, subjected to such restraints that he cannot, without their consent, appoint a minister or even a police agent, negotiate a treaty, or procure the passage of a law, and can hardly draw a musket from the public arsenals to defend his own person."

The ground of real discontent, he said, lies in the fact that the disunionists did not accept as conclusive the arguments which were urged in behalf of the successful candidate in the late canvass—this is all! Does the Constitution, in letter or spirit, imply that the arguments of one party shall be satisfactory to the other? No, that is impossible. What is the constitutional remedy for this inevitable dissatisfaction? Renewed debate and ultimate rehearing in a subsequent election. Have the now successful majority perverted power to the purposes of oppression? No, they have never before held power. Alas! how prone we are to undervalue privileges and blessings. How gladly, how proudly, would the people of any nation in Europe accept on such terms as we enjoy it the boon of electing a Chief Magistrate every four years by free, equal, and universal suffrage!

How thankfully would they cast aside all their own systems of government and accept this republic of ours, with all its shortcomings and its disappointments, maintain it with their arms and cherish it in their hearts! Is it not the very boon for which they supplicate God without ceasing, and even wage war with intermissions only resulting from exhaustion?

The spirit of disunion, he averred, sprung from a class of citizens living in the States bordering the delta of the Mississippi. They have, for thirty years or more, believed that the Union was less conducive to their welfare than would be a smaller confederacy of slave States. Availing themselves of the discontents arising from defeat at the ballot box they hastened to put into operation the machinery of dissolution long ago prepared and only awaiting the propitious occasion for its use.

In all the slave States there is, he remarked, a restiveness under the resistance offered by the free States to the extension of slavery into the common Territories of the United States. The Republican party, which has offered this resistance, and which elected its candidate for President on that policy, has been allowed, practically, no representation, no utterance, by speech or through the press, in the slave States, while its policy, principles, and sentiments, and even its temper, have been so misrepresented as to excite apprehensions that it denies important constitutional obligations and aims even at interference with slavery and its overthrow by State authorities or intervention by the Federal Government. Considerable masses, even in the free States, interested in the success of these misrepresentations as a means of partisan strategy, have lent their sympathy to the party aggrieved. While the result of the election brings the Republican party necessarily into the foreground in resisting disunion, the prejudices against them have deprived them of the cooperation of many good and patriotic citizens. On a complex issue between the Republican party and the disunionists, although it involves the direct national calamities, the result might be doubtful, for the Republican party is weak in a large part of

common Territories of the United States, and while I certainly shall never, directly or indirectly, give my vote to sanction or establish slavery in such Territories, or anywhere else in the world, yet the question what constitutional laws shall at any time be passed in regard to the Territories is, like every other question, to be determined on practical grounds. I voted for enabling acts in the cases of Oregon, Minnesota, and Kansas, without being able to secure in them such provisions as I would have preferred—and yet I voted wisely. So now, I am well satisfied that, under existing circumstances, a happy and satisfactory solution of the difficulties in the remaining Territories would be obtained by similar laws, providing for their organization, if such organization were otherwise practicable. I hold and cherish, as I have always done, the principle that this Government exists in its present form only by the consent of the governed, and that it is as necessary as it is wise to resort to the people for revisions of the organic law, when the troubles and dangers of the State certainly transcend the powers delegated by it to the public authorities. Nor ought the suggestion to excite surprise. Government, in any form, is a machine; this is the most complex one that the mind of man has ever invented, or the hand of man has ever framed. Perfect as it is, it ought to be expected that it will, at least as often as once in a century, require some modification to adapt it to the changes of society and alterations of empire.

Fourthly: I hold myself ready now, as always heretofore, to vote for any properly guarded laws which shall be deemed necessary to prevent mutual invasions of States by citizens of other States, and punish those who shall aid and abet them. I learned early from Jefferson that, in political affairs, we cannot always do what seems to be absolutely best. Those with whom we must necessarily act, entertaining different views, have the power and the right of carrying them into practice. We must be content to lead when we can, and to follow when we cannot lead; and if we cannot at any time do for our country all the good that we would wish, we must be satisfied with doing for her all the good that we can.

"Having submitted my own opinions on this great crisis it remains only to say that I shall cheerfully lend to the Government my best support in whatever prudent yet energetic efforts it shall make to preserve the public peace, and to maintain and preserve the Union; advising only that it practice, as far as possible, the utmost moderation, forbearance, and conciliation." [Applause in the galleries.]

the Union. But on a direct issue, with all who cherish the Union on one side and all who desire its dissolution by force on the other, the verdict would be prompt and almost unanimous.

But everything, he averred, is subordinate to the Union; Republicanism, Democracy, and every other political name and thing *ought* to disappear before the great question of Union or dissolution. He said:

"If others shall invoke that form of action to oppose and overthrow government, they shall not, so far as it depends on me, have the excuse that I obstinately left myself to be misunderstood. In such a case I can afford to meet prejudice with conciliation, exaction with concession which surrenders no principle, and violence with the right hand of peace. Therefore, sir, so far as the abstract question whether, by the Constitution of the United States, the bondman, who is made such by the laws of a State, is still a man or only property, I answer that, within that State, its laws on that subject are supreme; that when he has escaped from that State into another the Constitution regards him as a bondman who may not, by any law or regulation of that State, be discharged from his service, but shall be delivered up, on claim, to the party to whom his service is due. While prudence and justice would combine in persuading you to modify the acts of Congress on that subject, so as not to oblige private persons to assist in their execution, and to protect freemen from being, by abuse of the laws, carried into slavery, I agree that all laws of the States, whether free States or slave States, which relate to this class of persons, or any others recently coming from or resident in other States, and which laws contravene the Constitution of the United States, or any law of Congress passed in conformity thereto, ought to be repealed.

Secondly: Experience in public affairs has confirmed my opinion that domestic slavery, existing in any State, is wisely left by the Constitution of the United States exclusively to the care, management, and disposition of that State; and if it were in my power I would not alter the Constitution in that respect. If misapprehension of my position needs so strong a remedy I am willing to vote for an amendment of the Constitution, declaring that it shall not, by any future amendment, be so altered as to confer on Congress a power to abolish or interfere with slavery in any State.

Thirdly: While I think that Congress has exclusive and sovereign authority to legislate on all subjects whatever in the

Mr. Victor's eulogy of this speech and statement of its effects is representative of the opinion of the large number of persons in the Republican party whose devotion Senator Seward completely commanded at the time. He said:

The speech was as subtle as eloquent—as politic as profound—as deliberate as earnest; and, although it may detract from its candor, it will add to its wisdom to aver that the statesman was compassing his ultimate ends, in declarations for conciliation—in his pleas for the blending of all political parties—in that of devotion to the Union. Throughout all the free States public sentiment was taking an unmistakable direction; the people were ripe for the rallying cry, "The Union!" In it Mr. Seward, with a quick apprehension of the perils awaiting the new Administration, beheld the only instrument of its salvation—the tower of its strength. Therefore, apparently casting aside even his Republicanism—apparently repudiating the policy of the Republican leaders and of Mr. Lincoln, he struck the chord which soon became the nation's rallying call. Mr. Lincoln went into office as a Unionist rather than as a Republican, and Mr. Seward, like a Jove controlling the thunderbolts, directed all the terrible thunders and lightnings of the people, subtly but surely, against the enemies of the Executive.

On January 16 the Crittenden resolutions came to a vote. A substitute offered by Daniel Clark [N. H.], which declared that the Constitution as it stood afforded all the means necessary and advisable upon which to base the Union, was adopted by a vote of 25 to 23, the votes in the affirmative being all by Senators from the free States and those in the negative being by Senators from the slave States (with the exception of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas, which had either withdrawn from the Union, or were about to do so) and by moderate Northerners; the latter were William Bigler [Pa.], Jesse D. Bright [Ind.], Graham N. Fitch [Ind.], William M. Gwin [Cal.], Joseph Lane [Ore.], Milton S. Latham [Cal.], George E. Pugh [O.], and Henry M. Rice [Minn.]. Hannibal Hamlin [Me.], the Vice-President-elect, John R. Thomas [N. J.], Stephen A. Douglas [Ill.], and R. W. Johnson [Ark.] did not vote.

THE PEACE CONFERENCE

The Peace Conference of the States, called by Virginia, met on February 4. Thirteen free States (the New England and Middle Atlantic States, and Ohio, Indiana, Illinois, and Iowa) and seven slave States (the border States and Virginia, North Carolina, and Tennessee) were represented. Ex-President John Tyler was made president. A committee was formed of a representative from each State in the conference (James Guthrie, of Kentucky, being chairman) to report a plan of conciliation. On the 15th it presented a majority and two minority reports. The majority report was in seven sections. As subsequently amended these sections were:

1. Establishment of the Missouri Compromise.
2. New territory to be acquired only with the consent of a majority of the Southern Senators and of a majority of the Northern Senators.
3. Congress to have no power to abolish slavery in the States, nor in the District of Columbia, save with consent of Maryland and with compensation to slaveowners, but the slave market in the District shall be abolished.
4. Enforcement of Fugitive Slave Law.
5. Slave trade forever prohibited.
6. The parts of the Constitution guaranteeing equality of the States not to be amended nor abolished save with the concurrence of all the States.
7. The Government to indemnify owners of slaves lost through resistance to the Fugitive Slave Law.

Gov. Roger S. Baldwin [Conn.] presented a minority report as a substitute for the majority report, recommending a general constitutional convention of the States.

James A. Seddon [Va.] presented a minority report, supplementary to the majority report, declaring that all territory south of 36 degrees 30 minutes north latitude would be open to slavery without submitting the questions to the inhabitants, and that slaveholders should have the right to take their property through free States and be protected at sea in similar transit.

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Territories into embryo States with a view to their prompt admission into the Union. John Cochrane, of New York, revived the old scheme of dividing the Territories between free and slave labor on the line of 36 degrees 30 minutes. William H. English, of Indiana, proposed substantially the same thing. John W. Noell, of Missouri, proposed an abolition of the office of President of the United States and a division of the Union into three districts, each to elect one member of an "Executive Council," to which the functions of President should be intrusted. He suggested, moreover, a "restoration of the equilibrium between the free and slave States" by a division of several of the latter into two or more States each. Thomas C. Hindman, of Arkansas, proposed so to amend the Constitution as to protect slave property in the Territories, etc., and that any State which should pass an act impairing or defeating the operation of the Fugitive Slave Law should thereupon be deprived of her right of representation in Congress. Charles H. Larrabee, of Wisconsin, proposed a convention of the States.

That committee, on December 13, united in a resolve, moved by Justin S. Morrill, of Vermont, as a substitute for one moved by William McKee Dunn, of Indiana, affirming the necessity of proffering to the slave States "additional and more special guaranties of their peculiar rights and interests." Mr. Morrill's affirmation was as follows:

"Resolved, That, in the opinion of the committee, the existing discontents among the Southern people, and the growing hostility among them to the Federal Government, are greatly to be regretted; and that any reasonable, proper, and constitutional remedies, necessary to preserve the peace of the country and the perpetuation of the Union, should be promptly and cheerfully granted."

Twenty-two votes were cast for this proposition, including those of all the members from slave States who voted. Reuben Davis [Miss.] was present but did not vote. The nays (eight) were all Republicans.

The minority reports were negatived in the convention, as well as a number of independent propositions made from the floor.

Section one of the majority report was adopted by 9 votes to 8, each State having one vote; section two by 11 to 8; section three, by 12 to 7; section four by 15 to 4; section five, by 16 to 5; section six, by 11 to 9; section seven, by 12 to 7.

President Tyler gave the plan of conciliation to Vice-President Breckenridge, who laid it before the Senate, which referred it to a select committee of five (John J. Crittenden, of Kentucky, chairman). Senator Crittenden reported it on February 28, where, after considerable debate in which arguments already familiar were repeated, it was rejected by a vote of 24 to 12. The plan was also presented to the House and there shelved in favor of the Corwin plan.

HOUSE DEBATE OF THE CONCILIATION BILL

In the House of Representatives Alexander R. Boteler [Va.] had moved to refer that part of the President's message which related "to the present perilous condition of the country" to a select committee composed of a representation from each State. The motion was adopted, and the Speaker, William Pennington [N. J.], who was strongly inclined toward conciliation, appointed on the committee sixteen Republicans and seventeen Democrats (two being from Oregon and California)—both Republicans and Democrats, so far as it was possible to choose them, being men of moderate views. Thomas Corwin [O.], probably the least radical Republican in the House, and, because of his former Senatorial service, its most distinguished member, was made chairman, Mr. Boteler having declined to serve on the committee.

Many plans of conciliation were presented to the House, which were referred to the committee.

John Sherman, of Ohio, suggested a faithful observance on all hands of the requirements and compromises of the Constitution, with an immediate division of the

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GREAT AMERICAN DEBATES

On motion of Garnett B. Adrian (Douglas Democrat), of New Jersey, the House, on December 17, by 151 yeas to 14 nays:

"Resolved, That we deprecate the spirit of disobedience to the Constitution, wherever manifested; and that we earnestly recommend the repeal of all statutes by the State legislatures in conflict with, and in violation of, that sacred instrument, and the laws of Congress passed in pursuance thereof."

Owen Lovejoy (radical Republican), of Illinois, hereupon proposed this counterpart of the foregoing:

"Whereas, The Constitution of the United States is the supreme law of the land, and ready and faithful obedience to it a duty of all good and law-abiding citizens: Therefore,

"Resolved, That we deprecate the spirit of disobedience to that Constitution wherever manifested, and that we earnestly recommend the repeal of all statutes, including nullification laws so called, enacted by State legislatures, conflicting with, and in violation of, that sacred instrument and the laws of Congress made in pursuance thereof; and it is the duty of the President of the United States to protect and defend the property of the United States.

The yeas were 124; the nays, none—most of the Southern men refusing to vote.

Isaac N. Morris (Democrat), of Illinois, next moved:

That we have seen nothing in the past, nor do we see anything in the present, either in the election of Abraham Lincoln to the presidency of the United States, or from any other existing cause, to justify its dissolution.

On this yeas were 115; nays 44, two votes in the negative being cast by Northern Democrats, Daniel E. Sickels [N. Y.] and Thomas B. Florence [Pa.].

On the same day (December 17) Albert Rust [Ark.] submitted to the committee a plan of conciliation substantially the same as one presented in the Senate by John J. Crittenden [Ky.], and it was voted down some days later by 12 yeas and 15 nays, no Republican voting in the affirmative. On the 18th Henry Winter Davis [Md.] offered a resolution that the State legislatures re-

vise their laws concerning the Fugitive Slave Act so that no obstacles would prevent its enforcement. This was unanimously adopted.

On December 21, South Carolina having seceded, the representatives of that State resigned their seats.

William A. Howard [Mich.] offered a resolution referring the message of the President to a special committee of five, to report on the exact situation of the Federal property in Charleston; what demands, if any, had been made for its surrender; what pledges, if any, had been given to the secessionists not to send reinforcements to Fort Sumter; what efforts, if any, had been made to recover Federal property which had been seized by the secessionists, etc. The resolution was adopted by 133 yeas to 62 nays.

On January 14, 1861, the Committee of Thirty-three presented three reports, that of the majority, embracing Mr. Davis's resolution, recognizing slavery in the States and the right of these that it should not be interfered with; proposing the admission of New Mexico into the Union, with slavery if its people so voted; maintaining the duty of the Federal Government to enforce the Federal laws, protect the Federal property, and preserve the Union," and to protect citizens of one State when traveling in another in all these civil rights, and requesting the States to enact laws preventing and punishing attempts within their borders lawlessly to invade other States.

One of the two minority reports, presented by two radical Republicans, Cadwalader C. Washburn [Wis.] and Mason W. Tappan [N. H.], declared that, in view of the rebellion now in progress, no concessions should be made. The other minority resolution, presented by John C. Burch [Cal.] and Lansing Stout [Ore.], propose a convention of the States to amend the Constitution.

The Crittenden (Senate) plan was moved in the House as a substitute for the majority report and rejected by 80 yeas to 113 nays, and the majority report was adopted by 136 yeas to 53 nays, the ratio of Republicans to Democrats being about the same in the yeas as in the nays. Mr. Corwin further reported a joint reso-

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mine with the advocacy of the right of a State to remain in the Union, and to disregard its constitutional obligations by the nullification of the law. Such is not my theory. Nullification and secession, so often confounded, are, indeed, antagonistic principles. Nullification is a remedy which it is sought to apply within the Union and against the agent of the States. It is only to be justified when the agent has violated his constitutional obligation, and a State, assuming to judge for itself, denies the right of the agent thus to act, and appeals to the other States of the Union for a decision; but when the States themselves, and when the people of the States, have so acted as to convince us that they will not regard our constitutional rights, then, and then for the first time, arises the doctrine of secession in its practical application.

A great man who now reposes with his fathers, and who has been often arraigned for a want of fealty to the Union, advocated the doctrine of nullification because it preserved the Union. It was because of his deep-seated attachment to the Union, his determination to find some remedy for existing ills short of a severance of the ties which bound South Carolina to the other States, that Mr. Calhoun advocated the doctrine of nullification, which he proclaimed to be peaceful, to be within the limits of State power, not to disturb the Union, but only to be a means of bringing the agent before the tribunal of the States for their judgment.

Secession belongs to a different class of remedies. It is to be justified upon the basis that the States are sovereign. There was a time when none denied it. I hope the time may come again when a better comprehension of the theory of our Government, and the inalienable rights of the people of the States, will prevent any one from denying that each State is a sovereign, and thus may reclaim the grants which it has made to any agent whomsoever.

It is by this confounding of nullification and secession that the name of a great man [Senator Calhoun], whose ashes now mingle with his mother earth, has been invoked to justify coercion against a seceded State. The phrase "to execute the laws" was an expression which General Jackson applied to the case of a State refusing to obey the laws while yet a member of the Union. That is not the case which is now presented. The laws are to be executed over the United States, and upon the people of the United States. They have no relation to any foreign country.

It has been a conviction of pressing necessity, it has been a

lution proposing an amendment to the Constitution, whereby any future amendment giving Congress power over slavery in the States is forbidden; which was defeated, not receiving the requisite two-thirds—yeas 123; nays 71. It was reconsidered, however, on motion of Daniel Kilgore, of Indiana, seconded by Benjamin Stanton, of Ohio, and on February 28, 1861, was adopted: yeas 133, nays 65; and the Senate concurred: yeas 24, nays 12.

The debate in the House on this "Conciliation Bill" was one of the longest and most interesting in the annals of Congress. Nevertheless in ability the speeches in general fell below those in the Senate on the same subject, and therefore are here omitted.

As soon as their respective States passed ordinances of secession representatives in both Houses of Congress resigned their positions. Those in the Senate made farewell speeches, all of which are memorable for the spirit which informed them, and most of them for the ability with which this was expressed.

The speech of Jefferson Davis [Miss.] is here presented as typical of all.

"WE TREAD IN THE PATH OF OUR FATHERS"

FAREWELL SPEECH TO THE SENATE BY JEFFERSON DAVIS

It is known to Senators who have served with me here that I have for many years advocated, as an essential attribute of State sovereignty, the right of a State to secede from the Union. Therefore, if I had not believed there was justifiable cause; if I had thought that Mississippi was acting without sufficient provocation, or without an existing necessity, I should still, under my theory of the government, because of my allegiance to the State of which I am a citizen, have been bound by her action. I, however, may be permitted to say that I do think she has justifiable cause, and I approve of her act. I conferred with her people before that act was taken, counseled them then that, if the state of things which they apprehended should exist when the convention met, they should take the action which they have now adopted.

I hope none who hear me will confound this expression of

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belief that we are to be deprived in the Union of the rights which our fathers bequeathed to us, which has brought Mississippi into her present decision. She has heard proclaimed the theory that all men are created free and equal, and this made the basis of an attack upon her social institutions; and the sacred Declaration of Independence has been invoked to maintain the position of the equality of the races. That Declaration of Independence is to be construed by the circumstances and purposes for which it was made. The communities were declaring their independence; the people of those communities were asserting that no man was born—to use the language of Mr. Jefferson—booted and spurred to ride over the rest of mankind; that men were created equal—meaning the men of the political community; that there was no divine right to rule; that no man inherited the right to govern; that there were no classes by which power and place descended to families, but that all stations were equally within the grasp of each member of the body-politic. These were the great principles they announced; these were the purposes for which they made their declaration; these were the ends to which their enunciation was directed. They have no reference to the slave; else, how happened it that among the items of arraignment made against George III was that he endeavored to do just what the North has been endeavoring of late to do—to stir up insurrection among our slaves? Had the Declaration announced that the negroes were free and equal, how was the Prince to be arraigned for stirring up insurrection among them? And how was this to be enumerated among the high crimes which caused the colonies to sever their connection with the mother country? When our Constitution was formed the same idea was rendered more palpable, for there we find provision made for that very class of persons as property; they were not put upon the footing of equality with white men—not even upon that of paupers and convicts; but, so far as representation was concerned, were discriminated against as a lower caste, only to be represented in the numerical proportion of three-fifths.

Then, Senators, we recur to the compact which binds us together; we recur to the principles upon which our Government was founded; and when you deny them, and when you deny to us the right to withdraw from a Government which, thus perverted, threatens to be destructive of our rights, we but tread in the path of our fathers when we proclaim our independence, and take the hazard. This is done, not in hostility to others, not to injure any section of the country, not even for our own pecuniary benefit; but from the high and solemn motive of defend-

ing and protecting the rights we inherited, and which it is our sacred duty to transmit unshorn to our children.

I find in myself, perhaps, a type of the general feeling of my constituents toward yours. I am sure I feel no hostility to you, Senators from the North. I am sure there is not one of you, whatever sharp discussion there may have been between us, to whom I cannot now say, in the presence of my God, I wish you well; and such, I am sure, is the feeling of the people whom I represent toward those whom you represent. I therefore feel that I but express their desire when I say I hope, and they hope, for peaceful relations with you, though we must part. They may be mutually beneficial to us in the future, as they have been in the past, if you so will it. The reverse may bring disaster on every portion of the country; and if you will have it thus we will invoke the God of our fathers, who delivered them from the power of the lion, to protect us from the ravages of the bear; and thus, putting our trust in God, and in our own firm hearts and strong arms, we will vindicate the right as best we may.

In the course of my service here, associated at different times with a great variety of Senators, I see now around me some with whom I have served long; there have been points of collision; but whatever of offence there has been to me I leave here; I carry with me no hostile remembrance. Whatever offence I have given which has not been redressed, or for which satisfaction has not been demanded, I have, Senators, in this hour of our parting, to offer you my apology for any pain which, in heat of discussion, I have inflicted. I go hence unencumbered of the remembrance of any injury received, and having discharged the duty of making the only reparation in my power for any injury offered.

At this session, after the withdrawal of Southern members in such numbers as to give the Republicans a large majority in the House and a practical control of the Senate, three separate acts were passed, organizing the Territories of Colorado, Nevada, and Dakota, covering a large part of the remaining territory of the United States. These acts were silent with regard to slavery, leaving whatever rights had accrued to the South under the Constitution, as interpreted in the Dred Scott decision, not merely unimpaired but unquestioned by any Federal legislation. Their passage in this form was intended to strengthen the Unionists of the South, especially of the border States.



